THE TRIAL OF SHAMA CHARAN PAL

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AN ILLUSTRATION OF VILLAGE LIFE IN BENGAL

[WITH AN INTRODUCTION BY MISS ORME, LL.B.]

HOWRAH SESSIONS

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INTRODUCTION

In the following pages is contained the report of the trial of a Panchayet, or village headman, accused of the murder of an old man, a Brahmin, his neighbour and intimate friend. The report is published from the original record, and there is appended a note by Mr. Manomohan Ghose, giving the circumstances in which he undertook the defence of the accused, and explaining the excited state of public feeling in the locality where the crime was committed. The story set forth in the evidence, and in the Judge's charge to the jury, gives an insight into village life in Bengal, as affected by English administration, invaluable to those who consider it a duty to know something of the way in which the millions of our fellow-subjects in India are being governed. The address of the Government Pleader will astonish English readers accustomed to the guarded tone in which prosecuting counsel are expected to address British juries in criminal cases; whilst in the speech of the counsel for the defence will be found several suggestions, perhaps unconsciously given, well worthy the consideration of our legislative authorities. Whatever opinion is held of the desirability or possibility of the reforms recently proposed in the administration of law in India, there can be no dispute as to

the lamentable ignorance of the English public concerning the actual facts of the life of the natives, and this is true even of that small section of the public which professes an interest in practical politics. The biased and sensational pictures of a modern novel, and the inaccurate and unverified accounts of Anglo-Indians returned to this country after years of official drill, generally form the whole stock of information possessed by the English citizen on the subject. No wonder that when Indian questions come before Parliament little attention is aroused unless British interests, military or commercial, are directly involved. The report of a trial may be tedious in its necessary repetitions, but it is obviously the best method of getting hold of the unvarnished truth in a particular case, and it is hoped that a glossary of Bengali terms will, in the present instance, remove one of the obstacles which generally lie in the path of the English reader.

The case of Sham Pal affords several points of social interest apart from its legal aspect. The murdered man, Jadu Chatterjee, and Sham Pal, the man accused of murdering him, were Panchayets in the village of Bakshara, within a drive of Calcutta. We are, therefore, dealing with native life and the administration of law as they exist close under the eye of the central British authorities, and if any derelictions of duty occur they cannot be excused on the plea of the impossibility of maintaining discipline in outlying and uncivilized districts. For the benefit of readers unacquainted with modern institutions in Bengal, it may be as well to explain that there are two or more Panchayets in every village in Bengal. They are nominated by

the villagers and ratepayers, but appointed by the Magistrate of the district. Their duties are to superintend the work of the Chaukidars, or rural watchmen, of the village; to report to the nearest Police Station the commission of any crime cognizable by the Police; and to assess persons, and to collect rates and taxes under the Chaukidari Act (Act VII. of the Bengal Council of 1870). The office is honorary, and is generally given to persons of some importance in the village, but the duties are such as often to cause friction, and in the present case the villagers had actually petitioned against the Panchayets. At the time of the murder Sham Pal was defending himself against a prosecution in connection with the performance of his official duties, and was undoubtedly unpopular with his neighbours. Jadu Chatterjee was also unpopular in the village for several reasons, but as he was a Brahmin the feeling of respect for his caste overcame all other considerations, and his murder was regarded as a specially heinous offence. Everything conduced to sway public feeling against the accused man, and the Police found it an easy matter to collect such evidence as, although it failed to convince either Judge or jury, was presented by the Government Pleader as sufficient to hang a man upon. The energy of Sham Pal's young wife, who not only secured the invaluable aid of Mr. Manomohan Ghose, but, as Mr. Ghose explains, acted the part of solicitor in preparing the defence, was probably the cause of her husband's life being saved. Such a helper does not exist in every case. Sham Pal was a poor man, unable to get counsel, or even to bribe the Police. He was an unpopular man of whom the villagers were glad

to rid themselves, and his unpopularity was due to the fact of his holding an onerous and unpaid office under Government. Could there be any circumstances in which the higher Police authorities should have been more on the alert to watch the conduct of their subordinates and guard against a miscarriage of justice? Let us see how they acted in the present instance. The Sub-Inspector, Rasik Lal Bose, who first investigated the case, was suspended from his duties and superseded by other officers. It frequently happens in Bengal, that where one police-officer is investigating a case, some one is dissatisfied with the result of his inquiry, and persuades the higher Police authorities to depute a rival police-officer, who, for the sake of acquiring distinction, tries to reverse what has been done by his predecessor. This almost invariably leads to a failure of justice. Frequently the Executive give rewards and punishments to police-officers before the result of the trial, and it sometimes happens that a man is suspended or dismissed who, as the final result shows, ought to have been promoted. In plain English the guilt of the accused is prejudged by the Executive before the trial takes place. In the case of Sham Pal, the Public Prosecutor discredited the evidence of Rasik Lal Bose because he had been suspended, and yet it is from his evidence that we can discover the gradual concoction of the plot which so nearly proved fatal to the prisoner.

It is the possibility of an accusation being thus concocted and bolstered up after time for consideration that makes what is called the First Information of such great value in the investigation of a crime. It is given

at a Police Station and must be reduced to writing (Section 154 of the Indian Criminal Procedure Code). Mr. Ghose suggests, in his address for the defence, that it would be wiser in most cases of murder to withhold from the Police or the parties concerned the results of the *post-mortem* examination. Certainly it enables people, who are manufacturing evidence, to do so with greater effect if they know from what causes the death has arisen. On the other hand, it would add to the difficulty of an honest detective if he did not know the cause of death. But whatever may be the best policy as to the publication of medical evidence, there can be no doubt that the First Information, embodying the statements of persons likely to throw light upon the commission of the crime before they have been "got at" by the Police or others, or influenced by any gust of public opinion, must have great weight as evidence, and must also be invaluable for purposes of comparison with the evidence given at a subsequent trial. This point is well illustrated in the case of Sham Pal.

To the English reader it will seem strange that no law exists in India to regulate the sale of poisonous drugs. If Jadu Chatterjee was poisoned, as the medical evidence suggests, his murderers, whoever they were, could have procured the morphia without difficulty or risk of detection. Any one without professional qualification or licence may set up as a doctor and as a vendor of drugs. No doubt this adds to the difficulty of discovering the perpetration of some crimes, but it is still inexplicable that such a murder as that of Jadu Chatterjee has not been punished. Can it be that the Police authorities, offended at the failure of their

accusation against Sham Pal, will do nothing to trace the real criminals? It is certainly a proof of great inefficiency in the detective agencies in Bengal that the clues suggested during the trial of Sham Pal have not been followed up.

One of the worst features of the present administration of law in Bengal is shown in the evidence of the children, Gentu and Gaur Hari. It is easy for apologists to talk vaguely of the peculiarities of the native character, and to assume it to be impossible to avoid false evidence if native witnesses are to be heard at all, or native police employed. Allowing, for the sake of argument, any amount of difference between the characters and tendencies of races, it only becomes a more pressing duty on the part of the English authorities to visit with severe and certain punishment any of their employés who encourage the diabolical practice of teaching children by threats and violence to bear false witness against their neighbours. It is bad enough if private individuals, moved by personal antipathy or greed, concoct accusations and suborn witnesses, but it is far more serious when the conspirators are armed with official authority. In the trial of Muluk Chand, an account of which was published in 1888 (Fisher Unwin), the prisoner's own child, a little girl not seven years of age, was induced to give evidence which led in the first instance to her father being condemned to death, and although the prisoner, defended by Mr. Manomohan Ghose, was acquitted on appeal, no one can read the trial without a thrill of horror at the tragedy which might have occurred. If the practice of drilling persons in telling lies in the

witness-box were discouraged, as it ought to be, by the Executive authorities in India, and if the penalties fell heavier on officials than on private persons, and heaviest of all on those who dare to tamper thus with the unformed characters of little children, no person of common-sense will believe that such evidence as that of the woman Lakhi and the boy Gentu would ever be offered in a criminal prosecution.

Since writing the above the news has reached us of the sudden death of Mr. Manomohan Ghose, which took place in October last. His loss will be keenly felt by all who are interested in the Indian reforms, which he did so much to further, and the present work has a peculiar value as one of the last of his many attempts to bring the facts of Indian administration within the knowledge of English legislators and electors.

ELIZA ORME.

GLOSSARY OF BENGALI TERMS

Amar shakhyate ... In my presence.

Amra ... ... A kind of fruit, called the hog-plum (*Spondias mangifera*).

Bagan ... ... A garden.

Baitakkhana ... A reception- or sitting-room.

Bap ... ... Father.

Bau ... ... A young married woman.

Bhadra-lok ... ... A man above the labouring class; a gentleman.

Bideshi ... ... Belonging to a foreign country; a stranger.

Bigha ... ... A measure of land; one-third of an acre.

Chaukidar ... ... A village watchman.

Chik ... ... A necklace.

Chokra ... ... A boy; a lad.

Chowdani ... ... An ornament for the ear.

Churi ... ... A kind of bracelet.

Dada ... ... A word generally meaning elder brother; also grandfather. In the text used for grandfather.

Dâk ... ... The distance one can be heard calling.

Dâl ... ... A kind of pulse, split like peas.

Dalan ... ... A building.

Darogah ... ... A police-officer; now applied to sub-inspectors of police.
Dhuti ... ... A cloth ordinarily worn by Bengalis.
Didi-ma ... ... Maternal grandmother.
Fool-jhumka ... An ear ornament.
Garu ... ... A metallic vessel used as a jug.
Ghât ... ... The bank, or steps.
Ghoti ... ... A metallic vessel used for carrying water.
Ghora ... ... The same of larger size.
Ginni ... ... Mistress of a house.
Golmal ... ... Row; confusion; commotion.
Haldi ... ... Turmeric (*Curcuma longa*).
Hath ... ... Hand; the measure of length from the elbow to the finger-tips (a cubit).
Hooka ... ... A form of pipe, in which the tobacco-smoke is cooled by passing through water.
Hulud ... ... See *Haldi*.
Jama ... ... A coat; a shirt.
Jat ... ... Caste.
Kachu ... ... *Arum Colocasia*.
Kaka ... ... Paternal uncle.
Kan-bala ... ... An ornament for the ear.
Karta ... ... Master; governor; head of a house.
Kharam ... ... Wooden shoes.
Khata ... ... An account-book.
Khata-bahi ... ... Ditto.
Khirki ... ... The women's entrance to a house.
Khoraki ... ... Diet; money for board.
Kodali ... ... A form of hoe used in Bengal.
Kros ... ... A distance of two miles.
Lattie ... ... A stick.
Lotah ... ... A metallic vessel used for carrying water.
Machan ... ... A platform.

Mahajan ... ... A money-lender.
Mofussil ... ... The Interior, as distinguished from the Presidency towns of India.
Muktiar ... ... The lowest grade of legal practitioners in India.
Namabali ... ... A cloth on which names of Hindu gods are printed in red.
Nata... ... ... A climbing shrub (*Cæsalpinia Bonducella*).
Nata-ban ... ... A jungle of the above shrub.
O-ki-go ... ... A compound of three words, meaning, "What is that?"
Oorâni ... ... A sheet worn over the body.
Palao ... ... Imperative mood of the verb "to flee"; "to run away."
Pan ... ... Betel-leaf (*Pistia Stratiotes*).
Panchayet ... ... A village headman, nominated by the villagers and appointed by the Magistrate, whose duties are to supervise the work of the village watchmen, and to collect cesses and taxes.
Pap ... ... Sin.
Patit ... ... Waste land.
Pucka ... ... Applied to a house, that it is built of bricks and mortar; substantial.
Rasi .. .. Literally, a rope; also used as a measure of distance—forty yards.
Sadar-door ... ... Front door; main entrance.
Sadar-ghar ... ... An outer room, or room used by visitors.
Sala ... ... A term of abuse; literally, brother-in-law.
Sandal ... ... Wooden shoes.
Sanyasi ... ... A mendicant; one who has renounced the world.
Satgope ... ... The name of a caste.
Sati ... ... The name of a shrub.

Shandyar-pare ... After dusk.
Sindh ... ... A hole made in a wall by a burglar.
Sinduk ... ... A large chest.
Soti-gach ... ... A shrub.
Tabij ... ... An armlet.
Tajarat ... ... A trade ; money-lending.
Taktaposh ... ... A wooden platform used for sitting and sleeping.
Tâl ... ... The fruit of the Palmyra tree, or Fan Palm (*Borassus flabelliformis*).
Teli ... ... The name of a caste which sells oil.
Thakur ... ... Literally, a god ; also applied as a term of respect to Brahmins.
Thakur-ma ... ... Paternal grandmother.
Thana ... ... Police-station.

THE TRIAL OF

SHAMA CHARAN PAL

HOWRAH SESSIONS COURT.

21st November 1894.

(*Before C. M. W. Brett, Esq., Sessions Judge.*)

THE EMPRESS *v.* SHAMA CHARAN PAL.

THE charge against the prisoner was that he, on or about the 29th August 1894, at Bakshara, caused the death of one Jadu Nath Chatterjee, and thereby committed the offence of murder, punishable under Section 302 of the Indian Penal Code. The prisoner having pleaded "not guilty," a jury of five gentlemen was empanelled out of about thirty jurors summoned from the neighbourhood of Bally and other adjoining places. They were: 1. Bhagabati Prasanna Roy, *Zemindar;* 2. Kunja Behari Mukherjee, *Clerk;* 3. Uday C. Sanyal, *Zemindar;* 4. Prasanna Kumar Goswami, *Clerk;* 5. Gopal Chandra Roy, *Clerk.*

Mr. Manomohan Ghose (with Mr. P. Mitter, and Baboos Hem Chandra Ray and Sarat Chandra Ray) appeared for the prisoner.

The GOVERNMENT PLEADER (Rai Narasingha Chandra Dutt Bahadoor) proceeded to open the case on behalf of the prosecution. After explaining the law relating to the offence of murder, he said:—The deceased Jadu Nath Chatterjee, who carried on the business of a money-lender at Bakshara, lived in a small house, consisting of three rooms, one of which was used as a *baitakkhana*, or sitting-room; the next room to the west of it, separated by an archway, was his bedroom, where he usually slept; and the adjoining room to the west was the room where his wife used to sleep. The household consisted of Jadu Chatterjee, his wife Mati Debi, and an Ooriya servant of the name of Pandu, who used to sleep in the cow-shed next to the kitchen, which was to the north of Mati Debi's bedroom, with a door between. It will be proved that on the afternoon of Wednesday, the 29th August (corresponding with the 14th Bhadra last), Jadu Chatterjee, after taking his midday meal, was washing his mouth, when the prisoner Sham Pal, who professed to be a friend of his, came to the house, and informed Jadu Chatterjee that a purchaser had been found for the gold *tabij* (armlet), which he, the accused, had previously pledged with the deceased. Thereupon Jadu Chatterjee opened his chest, where he used to keep all the pledged jewellery, took out the *tabij* and went out almost immediately after Sham Pal. Jadu Chatterjee did not return home after that. At night the wife of Jadu Chatterjee and the servant Pandu took their meals as usual, and went to sleep, leaving Jadu Chatterjee's cooked food in the kitchen according to custom. The wife slept in her own bedroom as usual, leaving the door leading into her husband's bedroom

open.[1] Early the next morning, Pandu, on getting up, found all the doors chained and fastened from outside, and on coming to the southern side of the house, discovered a *sindh* (hole) in the wall just below the southern window in Jadu Chatterjee's bedroom. Mati Debi and Pandu then discovered that the wooden chest in the room had been opened and that the contents were gone. The padlock by which the chest had been locked was also gone. An alarm was then given of the commission of the burglary, and the neighbours came. The accused Sham Pal was then sent for, and as soon as he came in the morning, Jadu Chatterjee's wife taxed him with having taken away her husband the day before. Information of what had happened was then carried to the Police Station of Domjore by Pandu and Uday, the Chaukidar of the village, and the Sub-Inspector Rasik Lal Bose came to the village the same evening. He did not search the house of the prisoner that night, nor did he do anything important. He examined Sham Pal the next day, and I will put in this statement of the prisoner, as an important piece of evidence against him. In this statement the prisoner stated that Jadu Chatterjee was chewing *pan* (betel-leaf) when he saw him on Wednesday—a most suspicious statement, having regard to our case that morphia was probably administered by the prisoner in *pan* before the deceased was throttled.

Mr. Ghose, interrupting, remarked:—In fairness the Government Pleader ought to state the whole of what

[1] This statement was opposed to the evidence of the wife of Jadu Chatterjee, who stated: "The western door of my husband's bedroom was chained up as usual with the chain on my side." See p. 9.

the prisoner said. He said: "I found him chewing *pan* and smoking his *hookah* in his room." This ought to be stated, so that the jury may judge whether there is anything unnatural or suspicious in such a statement.

The GOVERNMENT PLEADER resuming:—I will put in the whole statement. No clue was obtained for several days, and on the 3rd September, Shama Sundari, the mother of Jadu Chatterjee's wife, who was then in the house, heard from two unknown women that the corpse of Jadu Chatterjee was buried in a ditch by the side of a jungle not far off from the prisoner's house. This information was at once communicated to the police officers, who were then in Jadu Chatterjee's house, and the body was discovered that evening in the place indicated. It was sent for *post-mortem* examination, but the cause of death was not then ascertained; a few days after this, a woman named Nritya stated that she had seen a boy, named Gentu, aged about eight or nine years, the grandson of the prisoner, visit his house on the Wednesday in question. This boy, on being asked, at once stated that he had seen on the Wednesday afternoon his grandfather, Sham Pal, throttling a Brahmin and killing him. This boy will be called, and he is the most important witness in the case. He is corroborated by another boy, named Gaur Hari, who was playing with him at the time. It will also be proved that on a search being made of the prisoner's tank, two small tin boxes were found by divers, which have been identified by Mati Debi as among the contents of the wooden chest. Some days after the committal of the accused, the Chemical Examiner reported that, on examination of the viscera of the deceased, traces of morphia were found. We have no evidence as to how

the accused administered the morphia, but it is very likely that before throttling the deceased the prisoner gave him a *pan* to chew, which contained morphia. This was probably done to stupefy the man, so that he might not be in a position to resist. Besides the evidence already referred to, there is the evidence of the two women on whose information the corpse was discovered. One of whom, Lakhi Naptini, states that she had overheard a conversation between the prisoner and another man, and that was how she had learnt of the whereabouts of the corpse. Lakhi's evidence may be open to suspicion, and I will call her if I think it necessary to do so. I will call the following witnesses—Mati Debi and Pandu Ooriya to prove what occurred in the house. Bhuti, Kebalram, Khadan Bewa to prove that Jadu Chatterjee was seen going in the direction of the prisoner's house. The boys Gentu and Gaur Hari will prove the murder. Bindu Bewa, the grandmother of Gentu, will prove that the boy, on his return home, told her what he had seen. I will call Nritya, Kalipada, Srikrishna, Prasanna Chatterjee (a cousin of the deceased), Shama Sundari (the mother of Mati) and Pocha, who accompanied Lakhi Naptini. I will also call Brindaban and Bijay Krishna, through whom the information about the corpse was communicated to the police, and Mahendra Patra who indicated to Pandu the name and residence of one of the two unknown women. I will also call Akhoy Banerjee, brother of Mati Debi, and Benimadhab Chatterjee, Basanta Kumar Mookerjee, Swarup constable (who went with the corpse), Jagabandhu Ghosh, and the two divers, Hem Bagdi and Kali Charan; lastly I will call the prisoner's own son, Hira Lal, to prove that, under instructions from his father,

he used to fire guns every night, and that the prisoner had told his son to do so even before the death of Jadu Chatterjee was known, alleging that some one might bury the corpse at night,—a most suspicious circumstance. The object of firing guns was undoubtedly to prevent jackals from digging up the grave of Jadu Chatterjee, as the place where he was buried was infested with jackals, and if guns had not been fired, the body would have been dug up by jackals and discovered much earlier. All these facts will leave no reasonable doubt in the mind of the jury that the prisoner is guilty of the crime charged.

Witness No. 1.

The Deposition of SRIMATI DEBI, *widow of Jadu Nath Chatterjee, aged* 36 :—

Jadu Nath was my husband. He used to live in his own house in Bakshara, on the south of the Bakshara road. The house is a masonry building, one-storied. There are three rooms in the house. The eastern room is used as a reception-room (*baitakkhana*). The middle room was my husband's bedroom. In the other room I used to sleep with my niece, aged about five years, for five or six months before my husband's death. Between my room and my husband's room there is a door, which can be fastened by a chain from my room and by bolt from my husband's room. Between my husband's room and the *baitakkhana* is a staircase and an archway with a door leading into the kitchen-yard. Adjoining my bedroom on the north is the kitchen facing east. North of the kitchen

is the cow-shed and the husking-machine. On north side, towards the road enclosing the whole of the house, a masonry wall; on the east side of the kitchen house is a bamboo fence. The wall is in a broken state.

There is an Ooriya servant in our house by name Pandu. He used to stop in the *baitakkhana* at night. But in Bhadra he stayed in the house where the husking-machine is kept. On the south of the house there is a wall, and south of it there is a large garden.

I have lived with my husband in that house since I was twelve years old. My husband used to lend money (*tajarat*). He carried on this business at his house. He lent money on pledges of ornaments, and on mortgage of lands, and on bonds. I know the accused Sham Pal. I have known him for the last five or six years, during which he has visited my husband. When Sham Pal came to the house he used to come and sit in my husband's bedroom. In that room there was a big wooden chest. The box is opened by moving a small sliding shutter of the box, and when closed it is fastened with a chain and padlock. My husband used to keep the pledged articles in that chest. My husband used to keep the key of the chest in his waistband. Sham Pal, accused, used to pledge ornaments with my husband. I have seen him bring them and take them away.

I remember Wednesday, the 14th Bhadra last (29th August). Sham Pal came to our house four days before that date, at about 10 A.M., and had a conversation with my husband. Sham Pal said he wanted to sell the *tabij* (gold armlet) and *makri* (earring), which were in pledge with my husband. On 14th Bhadra (29th August) Sham Pal came to our house at about

2 P.M. My husband was then coming out through his bedroom to wash his mouth, after taking his meal. Sham went and sat in my husband's bedroom. I was then standing in my room. He said: "Chatterjee Mahashoy, please come soon with the *tabij*, I have a customer for it, who is waiting in my house." While my husband was washing his mouth, Sham called Pandu and asked him something, viz.: "Can you tell me at what hour Hari Pan attends at Shibpur at Messrs. Apcar and Co.'s Foundry?" Pandu said: "He attends at 8 A.M., but comes away at 5 P.M." Pandu then went away. Afterwards my husband came into the room. Sham Pal asked him to hurry. My husband opened the *sinduk* (chest) and took out a parcel, which I recognized as one in which I had previously seen my husband tie up Sham Pal's *tabij*. My husband tied the parcel in his cloth, threw the end over his shoulder. Five or six days before the *tabij* had been taken out and weighed, as Beni Doctor was proposing to purchase it. My husband went off in a hurry, without smoking and without taking betel. It was then 2 or 2.30 P.M.

I never saw my husband alive again. My husband, when he left the house, was in good health and not suffering from any disease. My husband looked a younger man than accused. My husband did not return in the evening. At about 9.30 P.M. I went to bed, having first taken my meal and given the servant his meal, and placing food ready for my husband in the cook-room.

The western door of my husband's bedroom was chained up as usual with the chain on my side. All the other doors I closed from the inside. I left the food ready for my husband, as he frequently used to

come in late. On such occasions he used to call me, and I used to let him in through my room, and, after eating, he used to go to his room through mine. My husband did not return that night.

The next morning my servant woke me at 6 A.M., calling out: "Who has bolted the door of the archway from inside? I had bolted the door from outside." I got up and called out to Pandu: "Your master has not returned." I opened the door leading to the kitchen and found that the meal, which I had prepared for my husband, had not been touched. I opened the kitchen-door, which opens to the east, and Pandu then came in. I began to cry, seeing the rice had not been eaten. Pandu then tried to open the door leading to my husband's bedroom, undoing the chain from my side. He found the door bolted from inside. Pandu then went to open the southern door of my room, and found it chained from outside. He began to cry. Pandu then went, and, breaking through a bamboo fence in the verandah of the *baitakkhana*, he went through the verandah and round through the door to the west of the *baitakkhana*, and so round into the yard to the south of the house. There is no partition wall between the rooms and the *baitakkhana*. I afterwards followed Pandu out through that passage. I then saw that a *sindh*[1] had been cut through the southern wall under the window of the room in which my husband sleeps. The hole was near to where his *taktaposh* (bed) was placed. Seeing this I fell down crying.

I found the door to the south of my husband's room open. Pandu entered my husband's room, and said

[1] Hole in the wall.

that the chest was open. I did not go into the room, but went off to my husband's cousin, Prasanna Kumar Chatterjee, who lives alongside us, and his window overlooks our yard. He and others came to my house. I went into my husband's room with them. I saw the lid (sliding shutter) of the *sinduk* (chest) had been removed, and was resting on the floor against the chest. I could not find the padlock of the chest. With the exception of a silver-mounted *hookah*, the chest was empty. Some documents lying on the floor. A pair of shawls, which had been kept in the chest, were also lying on the floor. In the *sinduk* my husband kept four tin boxes, one larger than the others. I told Prasanna that my husband had gone away with Sham Pal and had not returned. Beni Doctor, Mahendra Chakrabarti and many others came to the house. I told them the same. Pandu went to call Sham Pal, the accused. He came at about 9 A.M. I and others asked him : "What have you done with my husband whom you took away? You have killed him and robbed us of all our property." Sham Pal said nothing, but went away slowly. When Sham Pal came to the house his eyes were red, and he appeared to have bathed. I did not notice anything else peculiar about him then.

Pandu then went to Domjore to inform the police. The Sub-Inspector came from the Thana in the evening (Rasik Babu). It was then after dark. He examined me, and recorded my statement. Sham Pal was at the time sitting in the *baitakkhana*, where I was examined. He was in the room when I was taken there. I said to him : "Sham Pal has committed the murder, and done all this." Sham Pal said nothing.

(The statement of the witness recorded by the police

is tendered by the pleader for the prosecution and marked as *Exhibit A*.[1] At the request of the Counsel for the defence, it is not read till after the cross-examination.)

The Sub-Inspector remained in my house that night. I noticed after the Sub-Inspector had come, that one of the thumbs of accused was swollen; he had scratches on his body and mosquito-bites; and I pointed this out to the Sub-Inspector. The Sub-Inspector asked the accused: "How is it you have these marks on your body?" He replied: "I have no mosquito-net, therefore the mosquitoes have bitten me. I have no money to buy one." As regards the swelling on the thumb he said he had been bitten by a centipede. The Sub-Inspector did nothing further that night. The next day he sent out Chaukidars to search all round my garden. The Sub-Inspector stayed in my house for six days. He sat in my *baitakkhana* and wrote quires of paper. I told him to go and search. He said: "I am writing."

Shama Sundari is my mother. She came to my house on a Friday following the Wednesday, the 14th Bhadra. She came from Ghoorool. She stayed in my house. On the sixth day, in the afternoon, I was with the Darogah (Sub-Inspector of Police); Brindaban, my neighbour, was also there. The Head-constable, writer-constable, and other constables were there. My mother then told me something, saying she had heard something from some *bideshi* (strange) women. I asked why she had not detained those women. I told Brindaban. He told the Sub-Inspector. The Sub-Inspector said: "Oh! that is all false." Brindaban said: "Let the neighbours go and search the place

[1] See page 21.

mentioned by the women." The people of the quarter —Beni Doctor, Mahendra Chakrabarti, and others went off running. After a little while, a man came running back to the house to the Sub-Inspector and said: "We have found a suspicious place. If you give orders we will dig it up." The Darogah went off with them. At about 9 or 10 P.M., I was called by the neighbours to a place where I saw a dead body. The body was near the house of Rasik's wife. The body was decomposed. I identified the body as that of my husband. I recognized it by the feet, by the general appearance, and by the face. The face was swollen. My husband used also to wear *kharams* (wooden shoes), and consequently his big-toe joints were enlarged and the toes bent. I told the Darogah that the body was that of my husband. The Darogah sent off the body that night. My brother, Akhoy Kumar Banerjee, accompanied the body.

The next day, the Darogah showed this *namabali* (red-coloured cloth) (*Exhibit B*), produced, which I identified as belonging to my husband: my husband was wearing it when he left my house on the Wednesday, 14th Bhadra. I also saw a *dhuti* cloth (*Exhibit C*), which I identified as my husband's: I recognized it. The cloth has since been hung on a mango-tree and spoilt. The Darogah showed me these two tin boxes three or four days afterwards. They contained scales and weights. They belonged to my husband, which were kept in the *sinduk*. Small articles of jewellery were kept in them. There were three *chiks* in one, one of which belonged to me.

Sham Pal had no work in the village. He was a Panchayet. I cannot say how he supported himself.

My husband was also a Panchayet. There is a small door from the kitchen into the cow-shed : which is used to bring in wood through in the rainy season. Previously there was no verandah to the kitchen. Now fuel is kept on a *machan* (platform) in the cow-shed.

Cross-examined by MR. GHOSE :—The door between the cow-house and kitchen is one *hath* (cubit) square. My husband's hair was slightly grey. He used to stoop when he walked. He has slept separate from me for the last five or six months. He has not been separate from me eight or nine years. I cannot remember when my niece came to me. I brought her as I was alone. Pandu knows that she has only been with me five or six months.

I told the Darogah that my niece was with me, when he wrote my statement. Mahendra Katuria, zemindar of the village (a Satgop), Beni Doctor, witness Mahendra Chakrabarti, and other gentlemen of the village were present when I was examined on the Thursday after candle-light. The Darogah (Sub-Inspector) read my statement over to me after they had got up and left. No one else was present then. When I heard it read, it was correct. It was not stated in it that my niece had been living with me for five or six months. I did not object because that fact was not recorded. I was on good terms with my husband. My husband never kept ornaments, or cash, with me in my charge. I did not tell the Darogah (Sub-Inspector) that Pandu's character was good. I said that no thefts had occurred while he had been with us. He asked me if I suspected him of the theft. I was comfortable in my home. I did not tell the Sub-Inspector : "I was not on good terms with my husband. He did not trust me with any of the

ornaments. He did not show me any of his money or ornaments. I used to live a miserable life." I did not say to the Sub-Inspector: "I cannot say who has broken into the house and committed the theft." I said, "I suspected Sham Pal."[1]

The Sub-Inspector did not come to our village at 4 P.M. He did not search the jungle all round my house before he examined me. He did nothing before he examined me. He did not question anybody before he examined me. The villagers had not all collected in my house before the Sub-Inspector came. The Sub-Inspector asked me what things had been stolen. I said: "All my own ornaments have been stolen." My husband always kept my ornaments. I always made them over to him after using them. Four days before

[1] The statement of this witness on this point as recorded by Rasik Lal Bose, Sub-Inspector, at 7 P.M. on Thursday, the 30th August, was as follows:—

"আমার সহিত আমার স্বামীর সদ্ভাব ছিল না ও গহনা পত্র টাকাকড়ি আমাকে কিছুই বিশ্বাষ কবিতেন না ও দেখাইতেন না। কষ্টের সহিত থাকিতাম। আমাদের চাকর উক্ত পাণ্ডব উড়ের স্বভাব চরিত্র ভাল এবং তেজারতির কারবারের দরুণ গ্রামের ও অন্যান্য গ্রামের লোক জন বাটীতে যাতায়াত করিত, কোন্ ব্যক্তি কর্ত্তৃক এই সিঁদ চুরি ঘটনা হইয়াছে তাহা জানিতে পারি নাই।"

"My husband was not on good terms with me. He never trusted me with either money or ornaments, and never showed them to me. I lived a miserable life. The character of our servant, Pandu Uriya, is good. Owing to the money-lending, business men of the village and from other villages used to frequent the house. I have not been able to find out by whom this burglary has been committed."

the theft I asked for my *chik* (necklace), but he would not give it to me. I wanted to wear it. I gave a list of the stolen ornaments to the Sub-Inspector. I was alone when I gave him the list of my ornaments. The others were present when the list of the other ornaments was made: Mahendra Katuria and others. They read out from papers the names of the ornaments, and the Darogah prepared the list. They read from the *Khattas* (Account-Books) which my husband kept on the top of the box in a bundle. They had not been taken by the thieves. My brother found the books in my husband's sleeping-room and made them over to the Sub-Inspector.

In the morning after the occurrence, I told Pandu and all the other persons that Sham Pal had taken the *tabij*. Pandu told me what he had said to the police. I told Pandu to inform the police; so did the others. My husband and Sham Pal were Panchayets for five or six years. My husband, a short time ago, gave up the office. Sham Pal was a particular friend of my husband. The greater number of the villagers are not opposed to Sham Pal. I know of no case between Sham Pal and Mahendra Katuria. I do not know whether my husband looked after Sham Pal's interest in a case brought by Bhuban Ghosh against him. About five days before the theft, my husband was going to Howrah, and told me he had business of his own. I heard that Bhuban Ghosh brought a case against Sham Pal for wrongful attachment of his *ghora* and *lota* (brass vessels). Sham Pal did not consult with my husband about that case that day. Sham Pal asked Pandu whether Hari Pan, who had given evidence against him in that case, had not his attendance recorded

at Apcar's office. I did not hear Sham Pal ask my husband to ask Pandu whether the attendance of servants at Apcar Co.'s was kept.

[The statement made by the witness to the police (*Exhibit A*) is read to the witness (p. 21).]

In that statement I did not say that I had not been able to find out who was the thief, nor did I say I would give a further list when I found out. What I said is not all correctly recorded. I did not say that Pandu found his door fastened. His room had no door. I said the middle door was chained from outside. I did not say that I opened the door leading to my husband's room from mine and went in. I knew before to-day that the Sub-Inspector had not correctly recorded my statement, because he did nothing. Nobody told me that my statement had not been correctly recorded. Before the Magistrate I employed a pleader. My brother engaged him.

I first saw Pandu in Orissa. I went to Puri, on a pilgrimage, without my husband's consent. This was about ten years ago. I then saw Pandu in Orissa. I brought Pandu back with me as my servant. I never paid him any salary. He got his food and clothing. He never left our house for any day to go to any other person's house in the village—he only went home,—nor was he brought back from any other house. Pandu's wife came from Orissa twice: once for one year, once for five or six months. The last time was two years ago. There was no quarrel with her, and she was not driven away. She went away of her own accord. Pandu was to have sent for his wife in this Bhadra, when this occurrence took place.

I did not send anybody to call my husband that

night when he did not return home. I never eat before my husband in the day-time. At night I do so, when he is out. He stays out at various houses till late at night. I did not ask him where he went. I take my meal in the evening when I have finished my business. My husband took rice, curry, *dâl*. He ate at about 1 P.M. in the day meal. My husband used to eat sometimes rice, sometimes bread, at night. That day he took rice. (Witness adds): That night rice was ready for him. I don't remember what he ate at the meal the night before.

Before going to bed I did not speak to Pandu as to where my husband was. How could I know whether he would return at all or not? On no occasion before has he been absent all night.

My husband's bedroom has two doors only: one to the south, and one leading to my bedroom. Every day I fasten the door between my husband's room and mine by fastening the chain. I used to open it when my husband came home. The door of the kitchen was fastened from inside. There is a door between my room and the kitchen, I had fastened it that night from inside my room. When my husband returned home of a night, he used to knock at the south door of my house. The door to the east of the *baitakkhana* remains open. I chain up the door between my husband's room and mine every evening. I also closed the door leading outside. When my husband is at home I do not close the door between our rooms. I do not go outside at night. I don't get up at night. That night I never got up to see whether my husband had returned.

My niece was not in my house when the Sub-

Inspector came. My nephew took her away the morning after the occurrence. One day, after the Sub-Inspector came, the child was brought and shown to him. I told the Sub-Inspector that my nephew had taken her away. There were scratches on accused's chest and side when he came the day after the occurrence. I mentioned this fact to the Sub-Inspector and to the Magistrate. In the morning I noticed accused's eyes were red, and he had bathed. In the afternoon I saw the scratches and the swollen thumb; not in the morning when I had been crying. I think I said to the Magistrate that accused's eyes were red. Before me the accused never gave any other explanation about the swelling of the thumb, except that it had been bitten by a centipede. Mahendra Katuria, Beni Doctor, and others were present when accused did not answer, when I charged him with the theft. The Inspector was present with the Sub-Inspector, when I came and said that the two women had come and said that they knew where the body was. Whether Pandu was there with the police or not I do not know. I told what I heard. Rasik Baboo, the police-officer, heard what I said. I had never seen the women before. I said: "Two women have said that, in the jungle near the Brahmin's tank, there is a grave, on which there are small *kachu* plants. If that is dug up, the body will be found." The Darogah sent a constable and Chaukidars and Pandu to find those women. They could not be found. While Pandu and the others were searching for the women, they found the body. That is the Inspector (points out Chiranjib Prasad Bose, Inspector). Pandu said he knew the women. He did not mention their names. It was not as early as 4 P.M.

when I told the police about the women. It was a little before sunset. I have never spoken to the women since. I asked Lakhi, one of them, once, in Ashin (September) I think, where they had heard about the body. Lakhi said that she and other women (corrects, that she alone) were going home from milking, when she saw Sham Pal and a man whom she had since pointed out as Nibaran. She heard Sham Pal say: "I have done a wicked act. I have killed a Brahmin. I have buried him in the jungle near the Brahmin's tank; and I have planted *kachu* trees over the grave, and they won't find the body." The two men were then walking on the public road. Lakhi told me, two days after the discovery of the body, that Nibaran Chakrabarti was the other man she pointed out to the police. I learnt that she had pointed him out to the police two or three days afterwards: before the police sahib (District Superintendent of Police) she pointed out the man. The villagers said his name was Nibaran Chakrabarti.

Beni Chatterjee used to take rice at our house when he came there. I cannot tell when last he ate with us. He ate at the Lakhi-puja last year. I don't know what special occasion he ate last with us. There is no quarrel, or party feeling, in my village: I have not heard of any. I never left my husband's home and went to the house of Joy Mooktiar.

Jadu did not ask Sham Pal who was the proposed purchaser of the *tabij*. Jadu did not tell him to bring him to him. Sham Pal frequently came to our house. I don't know whether my husband went often to his house. My husband said nothing when Sham Pal asked him to bring the ornament. He took it out of the box and went away with him with it.

Sham Pal was wearing only a *dhuti* and no other clothes. He had no other clothes on when he came next morning.

(The Deposition of the witness before the Magistrate is put in.) See Appendix.

Re-examination:—Pandu is employed at Messrs. Apcar and Co.'s as a rivet-man. He works for us in the morning and evening, so we give him food and lodging. I spoke to Lakhi about the men, when I met her on the way to Court. I was not present when the books of account were shown to the Sub-Inspector. I was not then present. I first saw him in our *baitak-khana*. Sham Pal was in the yard. I was in the verandah when I saw him on the morning. He was only in the house a short time. My nephew took away my niece at 8 A.M., before the police came. I could not feed her, so he took her away. The Sub-Inspector sent for my niece and questioned her. She is five years old. Lakhi overheard the conversation in the village of Satghara. The road there passed through bamboos. Pandu, after being sent to search, came and said he had traced the women, but they would not come.

To the Court (at the request of the Counsel for the defence):—My husband never used to take opium or morphia.

When I saw the dead body, there was some hair on it, but the greater part was gone. My husband had no beard. He only had a moustache.

(Signed) C. M. W. BRETT,

21*st November* 1894. *Additional Sessions Judge.*

EXHIBIT A.

Statement of Srimati Debi, recorded by Sub-Inspector Rasik Lal Bose, at 7 p.m., on Thursday, 30th August 1894.

Srimati Debi, wife of Jadu Nath Chatterjee, house-owner, of village Bakshara. Deponent said :—Yesterday at about 1 or 2 P.M., while my husband Jadu Nath Chatterjee was washing his mouth after meal, Sham Pal came to our house and was talking to my husband inside the masonry room facing south, where the burglary has been committed, when he called our Uriah servant Pandub and spoke to him about the criminal case, in which Gopal's son, Hari Pan, who serves at Apcar and Company's factory, was cited as a witness. After this Sham Pal said to my husband that there was a purchaser for the pledged *tabij* (armlet). Thereupon my husband took out from the *sinduk* (chest) the *tabij*, and went out from the house with Sham Pal. It was then about 2 P.M. Since then my husband never came back to his house. My husband generally used to go out in the afternoon or in the evening to try to realize money which different people owed him on account of his money-lending business, &c., and used to return about 11 or at midnight. He never was absent from home any night. Myself and our Uriah servant Pandub went to bed after dinner at about 9 P.M. The servant slept in the cow-house, and myself in my room facing south. My husband's bedroom is adjoining mine on the eastern side. In my husband's bedroom I bolted the door from inside. There was no one in the room. Thinking that I could open the door for him at any time of the night, when he would knock, as he used to do, I went to bed and fell asleep. That night my husband's bedroom was broken into by a hole made in the wall, below the south window, the lock of our big *sinduk* was opened, and gold and silver ornaments, &c., extracted. Amongst these, most of which were pledged ornaments, were my *tabij*, *chik*, *kanbala*, *fool jhumka*, and *chowdani*, but I can't say what property belonging to others it contained, and of what value they were. Everything will be found written in my husband's money-lending account-book, but I cannot ascertain from the book. All the property that I lost, and I could think of at the time, I put down in a separate list, and if I can ascertain that anything beyond the list has been stolen, I shall put it down afterwards. Neither I nor my servant was able to find out anything in the night. On rising from bed to-day, I found that the chains attached to the doors of my servant's and my bedroom were fastened from outside. Thereupon my servant, breaking open the fencing on our side of his bedroom, came out and unfastened the chain on the other door of my room. I then unfastened the bolt of the middle door of my husband's room,

and went in and found that the lock was opened and the padlock of the big *sinduk* was not in it, and all the ornaments were missing from it. There was only a silver-mounted *hookah* lying about. There was another silver-mounted *hookah* over the *takta-posh* (bedstead) on the floor. All the other articles were in their respective places. The thief did not meddle with them. From this I infer that some one familiar with the house has committed the theft. My husband had no quarrel or ill-feeling with anybody in our village, or in any other. My husband neither came back home nor told me where he had gone. I have been inquiring of the neighbours, but have not yet been able to know his where-abouts. There was nothing on my husband's person besides a *namabali* (red-coloured sheet) and a pair of slippers. My husband was not on good terms with me. He never trusted me with either money or ornaments, and never showed them to me. I lived a miserable life. The character of our servant Pandu Uriya is good. Owing to the money-lending business, men of the village and from other villages used to frequent the house. I have not been able to find out by whom the burglary has been committed.

\+ SRIMATI DEBI,
Of Bakshara.

This statement has been read out and made a part of First Information, No. 7 of the current month, together with the list of stolen articles.

(Signed) RASIK LAL BOSE,
Sub-Inspector.

SECOND DAY.

Recalled and examined further for accused with consent of the Court :—

When I appeared before the Magistrate I had on a black-bordered sheet and two gold bangles on my wrists. I had no ornaments on my ankles. I wore such cloth and ornament for about a month after the dead body had been discovered. I did not put on mourning before, because of the case. I had no time to get other clothes and to perform the funeral ceremonies.

I was examined first before the Deputy Magistrate,

Mr. Banerjee, in Court, with regard to this case. I then stated that my niece was with me on the night my husband disappeared: (adds) my niece was present. I don't know if I was asked if she was with me that night.

(Deposition before the Magistrate offered to be put in as evidence. Objected to by Government Pleader, as it is only to prove an omission, not a contradiction. Admitted by order of the Court.[1])

Further re-examined:—

I performed the necessary funeral rites immediately the case was finished before the Magistrate, *i. e.* more than a month ago. Since then I gave up coloured clothes and took off my ornaments.

(Signed) C. M. W. BRETT,
22*nd November* 1894. *Additional Sessions Judge.*

Witness No. 2.

The Deposition of PANDU BARIK, *aged* 34.

I know Jadu Nath Chatterjee. I used to stop at his house. I have been there for the last ten years. I work there in the morning and evening, and in the daytime I work as a riveter in Apcar and Co.'s office. I take my meals at Jadu Nath's house. It is cooked for me there. I used to sleep at night in the *baitak-khana* (reception-room) in that house. In Bhadra last I slept in the cow-shed attached to the house, while the reception-room was being repaired.

[1] In this deposition, dated the 6th September 1894, there is no mention of the niece having slept with her on the night of the 29th August, or of being in the house on that day.

I know Sham Charan Pal, the accused. I have known him ever since I came to Jadu Nath's house. He used to come frequently to Jadu Nath's house to see him. I remember the 14th Bhadra last; at 2 or 2.30 P.M. I was cutting chaff in the north yard of Jadu Nath's house, in front of the cow-house, when Sham Pal called me. He was then in Jadu Chatterjee's house. I went into the room of the Babu—east of the room occupied by the wife of the Babu. Sham Pal was there. Jadu Nath was then coming from the verandah into the room.

Sham Pal asked: "At what time does Hari Pan, son of Gopal Pan, attend Apcar and Co.'s office, and when does he leave?" I said: "He attends at 8 A.M., and leaves at 5 P.M." I then went out to the tank to catch fish. After ten or fifteen minutes, not having caught any fish, I returned to the house. I did not then see Sham Pal or Jadu Nath.

Nothing further occurred till before dusk (corrects, after dusk), when I had my evening meal. I went to sleep before gun-fire (9.30 P.M.). Before going to bed, I chained up the door underneath the staircase leading to the north yard. I fastened it up from the north side. The door is to the east of the Babu's room. I went to sleep in the cow-house.

I got up the next morning. There is a mat door to the cow-house which fastens from the inside by a cross bamboo. I did not close the door that night. When I got up, I went out and tried to open the door under the staircase, and found it to have been bolted from inside. I then called to Jadu Nath's wife: "Mother, mother, somebody has bolted this door from inside: I cannot enter." She replied: "What door

shall I open?" She came out through the kitchen saying: "It is daylight, but your master has not yet come." I went into the cook-house and through it into his wife's room. I opened, or took down the chain which fastened the door between his wife's room and Jadu Nath's room. I found that it would not open, but was bolted from the other side. I then undid the bolt of the door leading to the south. I found it to be chained from outside. I then went back into the yard through the cook-house, and pulled aside the bamboo partition in the verandah of the *baitakkhana*, and went round through the sudder door on the east of the *dallan* (building) to the south yard. Jadu Nath's wife followed me. I then saw that a hole had been cut under the east window, in Jadu Nath's sleeping-room, in the wall. The hole was about one cubit square. I then noticed that the door of the room facing to the south was open. I went into the room. The windows are wood frames with cross-bars and inside shutters, which are fastened by wooden catches at the top and bottom (*i. e.* pieces of wood, working on a nail or screw).

After entering the room I found some papers on the floor and the top of the wooden chest leaning against it. The wooden chest had nothing in it, except a silver-mounted *hookah*. Seeing all this, I ran off to Prasanna Thakoor's house. I call him uncle (*kaka*), because he is related to Jadu Nath. I called him to the house, saying: "Somebody has broken into our house." Jadu's wife went with me. Prasanna came into the house and saw what had happened. Mother (*i. e.* Jadu's wife) fell down crying. Prasanna went to support her. Afterwards many people came, viz. Braja Nath Mookerjee, Mahendra Chakrabarti, Beni Doctor, Shasi Mookerjee,

Prianath Mookerjee, Abinash Banerjee, and others; also Mahendra Katuria. They questioned Jadu Nath's wife. She said: "Sham Pal called my husband away at 2 P.M. yesterday. He did not return, and in the night the house has been robbed." The respectable men sent me to call Sham Pal. I went and called him. He came with me to the house. He went inside the house. Jadu Nath's wife said: "You took away my husband at 2 P.M. yesterday, where have you kept him? You have killed him. Your eyes are red." Sham Pal said nothing in reply. Nibaran Chakrabarti and Ram Lal Ray, Panchayets, then gave me something in writing, and sent me to Domjore Thana. I arrived at the Thana at about noon. I there saw Rasik Lal, the Darogah. He recorded my statement. I returned with him to the village, which we reached before dark. I cannot read and write. (Statement put in, marked *Exhibit E.*) The Sub-Inspector sent for Sham Pal and the neighbours in the evening, and they came. The Sub-Inspector spent the evening examining Jadu Nath's account-books and writing something.

I remember the day when a dead body was found. It was five days after that Wednesday. In the afternoon of that day I was in the house when two women came to see Jadu Nath's wife. I knew one of them from before. I saw both of them. They went to Jadu Nath's wife's mother, Shama Sundari, as Jadu Nath's wife was with the police. When they stood by her, I went away to work. I did not know the names of the women. I recognized I had seen her one day, in the shop of Mahendra Patra, making purchases. I don't know what the women said.

Afterwards Mother (*Note by the Judge*:—He calls

Jadu Nath's wife this throughout) called me to the police, and asked me if I knew either of the two women. I said: "I don't know them, but I saw one in Mahendra's shop one day." The police sent me for her. I went to Mahendra's shop: I saw him. I said: "What is the name of that woman who bought some oil of you some days ago? Where does she live?" He replied: "Her name is Lakhi, and she lives at Satghara."

Q.—Give the whole of what Mahendra said to you, and you said to him.

A.—I said to him: "Who was that woman who bought things from you the other day?" He replied: "She lives in Satghara, and her name is Lakhi." When she purchased the things there had been some dispute (wrangling) about the price of the things. I went back with the information to the police. The police sent me with a Chaukidar to Satghara to call Lakhi. I saw her. It was then a little before dark. She would not come with us. She said: "I cannot go now." I returned, and on the way before candlelight I heard that the dead body had been found. I went to the place where the body had been found, in the corner of Khetra Ghose's garden. I saw the two hands of a man protruding through the ground. People were digging the body up. The body was dug up, and I then examined it. I recognized the body as that of Jadu Nath Chatterjee. I recognized it, because the big toes of both feet were bent. I also identified it by the appearance. I first identified it by the toes, which were bent. The body was decomposed. It had not gone to pieces. The body was taken to the road and afterwards taken by the police. Some *mehters*, or low caste men, moved the

body. Akhoy Banerjee, brother of Jadu Nath's wife, went with the body.

On the Wednesday on which Jadu Nath disappeared, I was at the house at night, and also Jadu Nath's wife and her niece. I have been out of employment for five or six days before that Wednesday. I had been discharged by Apcar and Co., because the work was finished on which I was employed.

Cross-examined by MR. GHOSE:—I worked for Apcar and Co. for five years. I had not worked for anybody else during the ten years I was with Jadu Nath. For the other five years I was in Jadu Nath's house without pay. I did not work for Apcar and Co. for five years continuously, but from time to time. I cannot say for how long I was in Apcar and Co.'s employment without a break. Before that Bhadra I was in employment there for four months. I don't remember how long I was out of employment before that. I was first employed by Apcar and Co. five or six years ago. I don't know whether before that I was receiving no wages. Besides Apcar and Co. nobody employed me in Bengal since I came from home. I came with Mati Debi, last witness, from Orissa. I received no pay. In Orissa I was serving a Panda, Ram Kishun, at Rs. 3, 3-8 or 4 and my food. My master sent me away with Mati Debi. There was no agreement that I was to receive any pay. I was sent with four pilgrims. I did not say anything about pay. My master said, that whatever presents the pilgrims should give would be mine. I am about 34 years old. When I came I was about 24. The other three pilgrims were one Kailas, another the wife of Prianath Mookerjee, and the third Basanta Nandi's aunt. When the Sub-Inspector came to my

master's house, he slept in the reception-room (*baitak-khana*). The Inspector also stayed there when he came. When the police came, there was only a mosquito-curtain of mine in that room. No other bedding of mine that I know of was in the room. Before to-day I have made no mention to any Court or Officer that the reception-room had been under repairs. I had been sleeping in the cow-house for about ten days before the occurrence. I had never before slept in the cow-house. How can any one sleep there? The reception-room had to be whitewashed, that was the only repairs. The house had been previously plastered, but plaster had come over from the lower part. That which had come off, up to about my waist, was repaired. No scaffolding was put up inside the room. Two masons worked off and on, as they were paid. I don't know how many days they worked. Jadu Nath told me to sleep in the cow-house while the repairs were going on. I made no objection.

I told the Darogah at the Thana, that when Sham Pal came to the house on the Thursday morning, his eyes were red, and Jadu Nath's wife charged him with having murdered her husband. I did not tell the police that Sham Pal had been to ask for a *tabij*. I don't remember whether I heard that Jadu Nath had gone to Sham Pal with the *tabij* that Wednesday afternoon, before or after I went to the police, or before or after the police came to the village. Jadu Nath's wife said nothing about the *tabij* when she charged Sham Pal with the death of her husband. I don't remember whether I heard anything about the *tabij* that Thursday or not. I did not tell the police at the Thana that the niece was with Jadu Nath's wife that night. The

Sub-Inspector did not read out to me what he had written. I did not say to the Sub-Inspector that I had searched for Jadu Nath and could find no clue, and that I did not know where he had gone. The Darogah asked me if I had searched. I said: "I had made no search." I did not say to the police that I suspected nobody of the offence. If the Sub-Inspector wrote so, he wrote what was false.

I was examined before the Magistrate. My information to the police was then read over to me. I then said to the Magistrate that that was the information I had given to the police, and that it was recorded correctly. I don't remember whether I said that any part of the statement was false. I did not say to the Sub-Inspector that I had seen Jadu Nath at his house till 4 P.M. that Wednesday. I did not say to him that Jadu Nath did not trust his wife, and so kept no money or ornaments with her. Jadu Nath was on good terms with his wife. I did not tell the Sub-Inspector so. He did not ask me. Jadu Nath used to let her have the ornaments and trusted her.

I told the Sub-Inspector that the thief had fastened off all the doors that night. Uday Chaukidar went with me to the Thana to lodge the information. The written information which I carried was given to me at Prasanna Chatterjee's. Many persons were then present, ten or twenty, when the document was written. Mahendra Chakrabarti came up while the statement was being written. Beni Doctor was there. Mahendra Katuria was not there. Prasanna Chatterjee was then in our house. What was written was not read.

[Information given by the witness to the police is read (*Exhibit E*, opposite page).][1]

[1] *First Information lodged at the Domjore Police Station, Sub-District Howrah.*

(1)	(2)	(3)	(4)	(5)	(6)
Hour and date of receipt of first Information at the Police Station.	Names of Informant and of Defendants.	Crime reported and value and description of articles stolen.	Date of Occurrence.	Place of Occurrence and distance from the Police Station.	Steps taken by the Officer in charge of the Police Station.
30-8-94 12 Noon.	Informant: Pandu Uria Paramanik. Defendant unknown.	Offence under Section 457 of the Indian Penal Code, by making a hole in the masonry wall of the owner of the house, and opening the padlock of the chest, stealing gold and silver ornaments, &c. Cannot state the price of the articles stolen and what they were.	29th August 1894, 9 P.M., some time after that hour the occurrence took place.	North Bakshara Village, 9 miles to the south-east of the Police Station.	I, the Sub-Inspector, take charge of this investigation, and start for the locality. The report of the Panchayet, dated 30th August 1894, is herewith forwarded. Rasik Lal Bose, Sub-Inspector, Station Domjore.

Date and hour of Despatch :—30th August 1894, twelve o'clock noon.

Pandu Uriya Paramanik, in company with Uday Chaukidar of North Bakshara, submitted a report from the Panchayet Nibaran Chandra Chakrabarti, and stated:—Yesterday at about 4 P.M., while I was cutting straw in the courtyard of my master, Jadu Chatterjee's house, I saw both Sham Charan Pal of the village and my said master, Jadu Chatterjee, conversing in the *pucka* house facing south. After seeing this, I went with a rod to fish in a tank. After about ten or fifteen minutes I returned, and did not see my master, Jadu Nath Chatterjee, and Sham Charan Pal; and I knew not where they had gone to. The said Jadu Nath Chatterjee has transaction of lending money on mortgage. There is none in the house except he and his wife. My master used to keep his own money and other pledged ornaments of gold and silver in the chest, the key of which remained with him only and nobody else. I have seen this. He never trusted his wife with his keys or money. I saw him keeping the key in the thread on his waist always. My master used to return home, when he went out on other days, at 12 o'clock or 1 A.M. He never stayed anywhere the whole night. Last night at about 9 P.M., after taking my meals, I went to bed in the cow-shed in my master's compound. My master's wife also slept in her bedroom alone, closing the door herself. The doors of my master's room were also closed. There was none in that room. During that night, at a certain hour, a thief entered by breaking open the wall underneath the window of the room, and stole all the property in the chest. I cannot say what properties were stolen, and of what value. The lock and key of the chest were taken away by the thief. I could not find them out. My master is absent from 4 P.M. yesterday to 9 A.M. this morning. I could not find any clue of his whereabouts. I do not know where he has gone to. I am under my master since ten years. I am fed and clothed by my master. I serve under Messrs. Apcar and Co., as a rivet-man, on a pay of Rs. 10 per mensem. I do not suspect any one in this case. I do not know to read and write. The statement was read to me, and I find it correctly written. I sign it.

PANDU PARAMANIK.

I touched the pen with which the statement was signed. I don't remember whether the statement read to me by the Magistrate was the same as that just read. I don't remember if I said to the Magistrate that I had never said anything about four o'clock.

For the ten years I was with Jadu Nath, I never went to any other house to stay. I was not sitting by

the two police-officers when the woman Mati came to tell the police about the information about the body. I don't know what the time was when the women came and spoke to Jadu Nath's wife's mother. It was in the afternoon. (The witness, though repeatedly questioned, will not say at what hour in the afternoon, or whether it was early or late in the afternoon.) They were standing at the door (south) of Jadu Nath's wife's house, on the ground. I did not question them. I was going to attend on the cattle. The police-officers—Inspector and Sub-Inspector—asked me whether I know the two women, and whether I had seen them. I said I had not seen them, and did not know them. There was no search made then for the women.

It was before evening when I went to ask Mahendra Patra about the women. It was on the day the corpse was found. It is not true that I went to Mahendra's shop between 12 and 1 P.M. I only went to his shop once. Lakhi never came to milk our cows. I did not know her before. When I returned from Lakhi's house, I did not tell the Inspector, or Sub-Inspector, that I had found Lakhi, and she would not come, or anything about her. The police-officers did not tell me, or Jadu Nath's wife, that it would go hard with us if we did not produce those women. The police-officers did not ask me, after my return, whether I had found the women. That night, after sending off the dead body, the police-officers came back to our house. I only said to Lakhi: "Mother (*i. e.* Jadu Nath's wife) is calling you, come." The Chaukidar said nothing. She replied: "I cannot come:" nothing more. I did not afterwards bring Lakhi to the police. I don't remember who brought her to the police. I don't know.

I don't remember whether before to-day I spoke in any Court or before any officer of Jadu Nath Chatterjee and his wife as "Father" and "Mother," and Prasanna Chatterjee as *kaka* ("uncle"). I don't remember whether I ever called Jadu Nath's wife by any other title than "mother." I never called her *ginni* (*grihini*, mistress). I don't remember whether I said to the Magistrate that I always called her "*ginni*."

(Deposition before the Magistrate offered as evidence and put in.) See Appendix.

Re-examined:—After I first came with the pilgrims from Orissa, I stayed four or five months, because they were very fond of me, having no children. I then went. The "*karta*[1]" would not let me go before (when his attention is drawn to the use of the word *karta*, instead of *Bap*, in describing Jadu Nath, the witness says, he did not say *karta*, but afterwards says):—The *kartà* was Jadu Nath. I remained at home two months. I returned then to Jadu Nath, because he (*Bap*) asked me to come. I then obtained employment as a rivet-man at Apcar and Co.'s. I was here for six months, and then went home. I went home once again. On the two occasions I was at home for six months. I brought my wife back with me on my return from the first visit. This was six or seven years ago. She was with me a year. On the second occasion my wife was with me six months. It is not usual for Uriyas to bring their wives to Bengal. Jadu Nath's wife told me to bring her. I did not tell the police about Lakhi on my return, as the body had been found. The Chaukidar came back before. The police returned

[1] The second "*karta*" is equivalent to "Governor" in English.

to the house, after sending off the body, late in the village.

C. M. W. BRETT,

22nd November 1894. *Additional Sessions Judge.*

Witness No. 3.

Deposition of BHUTI DASI.

I am 45 years old, of Bakshara, supported by my son.

I know Jadu Chatterjee's house. My house is five or six bighas from his. On a Thursday, in the middle of Bhadra last, at 8 or 9 A.M., I heard that the house of Jadu Nath Chatterjee had been broken into. On the day before, Wednesday, I saw Jadu Nath Chatterjee and the accused, Sham Pal, talking to each other near the gateway of Abinash Banerjee, at 2.30 or 3 P.M. They were standing on the road. Jadu Nath was wearing a white *dhuti*, without a coloured border, and a red-flowered (*namabali*) sheet or cloth. I went on by the road, westwards, to my house. The cloth that Jadu Nath wore was like the cloth (*Exhibit B*) produced. I never saw Jadu Nath afterwards. If he was alive after that, I could see him.

Cross-examined by MR. GHOSE:—Mahendra Katuria is the zemindar in our village. I have no relationship or connection with him. I was examined by the police on the day the body was found, six days after I had seen Jadu Nath and accused. The Inspector and Sub-Inspector were both present. Before that I had not talked with any of the villagers over what I had seen.

I told Mahendra Katuria and Mahendra Chakrabarti (witnesses) on Thursday that I had seen Jadu Nath and accused. They came to my house. They did not take me to the police. I did not say to them: "I saw Jadu Chatterjee talking to a man like Ambika Brahmin." Ambika Brahmin lives in Bakshara: I know him.

Abinash's house and Jadu Nath's house adjoin. Between the entrances of the two houses there is a distance of fifteen or twenty cubits. I was in the village from the Thursday till the discovery of the corpse. I was coming from a shop from the north with oil-cake.

I said to the police that Mahendra Katuria and Mahendra Chakravarti asked me whether I had seen Jadu Chatterjee and accused on the road. I did not say that I said in reply: "I did not see them go anywhere." The conversation with them was at 9 A.M. on Thursday, before the Sub-Inspector came to the village.

I saw nothing in Jadu Chatterjee's hand when he was talking to Sham Pal. I did not see anybody else on the road that day as I was going home. I did not speak to them. I never told anybody, except Mahendra Katuria and Mahendra Chatterjee, that I had seen them.

Sham Pal never sent my cow to the pond. There is no quarrel between the villagers and Sham Pal. No one is displeased with him about the Panchayet work.

Re-examination:—I was fifteen *haths* (cubits) from Sham Pal and Jadu Nath when I saw them. I was coming from Nritya's house, from the north. They were talking north of the roadway but south of me.

Jadu Nath had his left hand behind him. I saw his hands. I saw nothing in them.

C. M. W. BRETT,
Additional Sessions Judge.

23rd November 1894.

Witness No. 4.

The Deposition of KEBAL RAM MOOKERJEE.

I am out of employment, of Bakshara, aged about 20. Previously I had a cheroot shop in Bentinck Street, Calcutta. My house in Bakshara is east of the road running north and south. I know Abinash Banerjee's house. It is on the south of the road. From my house the road turns eastwards. My house is one and a half bighas from his gateway.

I knew Jadu Chatterjee. On the morning of a Thursday, in Bhadra, I heard that there had been a burglary in his house. On the Wednesday before I was in my house. At 2.30 or 3 P.M. that day, I saw Jadu Nath Chatterjee going past my house northwards, by the road, in front of my house. He was wearing a red-flowered or figured (*namabali*) sheet on his body, and a plain *dhuti*. In his hand he had a bundle. He was alone.

I heard of the burglary in his house at 7 or 7.30 A.M. on the Thursday. Next day I went to Jadu Chatterjee's house. I saw a *sindh* (hole) in the wall of Jadu Nath's sleeping-room, near the window. All the people there said Jadu Nath had not returned the preceding night, so we went out to search for him. I did not find him, and returned to the house at 8.30 A.M. I then, with my brother, Bholanath, and at his suggestion, went home.

When I heard that Jadu Nath was missing, I said to Mahendranath Ghosh (Katuria), Gopal Chatterjee and others, that I had seen him the preceding day at about 3 P.M.

Cross-examined by MR. GHOSE:—Bholanath Mookerjee is my elder brother. He is the head of our house (the *karta*). I know English. There was another Bholanath in the village. His house was burnt a year ago, and he left. He knew English. There is no party feeling in our village. I have never heard of any such party feeling before to-day. I never heard that an attempt was made to turn Sham Pal and Jadu Chatterjee out of the office of Panchayet. I heard that they would resign. I signed several petitions. The petitions were prepared by Beni Doctor, Mahendra Katuria, and Abinash Banerjee. Mahendra Katuria asked me to sign. I never heard that there were consultations in the village to get rid of Jadu Nath and Sham Pal. This signature (*Exhibit* 1) is the signature of my brother Bholanath.[1] I also recognize in that paper the signature of Doyamoy Banerjee. I do not remember that my brother Bholanath, in March last, petitioned against Sham Pal and Jadu Nath Chatterjee. I heard that Hari Ghosh complained against Sham Pal and Nibaran Chatterjee. The hearing of the case was fixed on the day the body was found. It was pending when Jadu Nath disappeared. I don't know what feeling exists between Sham Pal and Mahendra Katuria, one of the zemindars of our village. There was a case brought by Sham Pal to get Adhar Chaukidar dismissed. I signed

[1] Exhibit 1 will be found at pp. 53, 54. It is a petition to the Magistrate of Howrah, praying for the removal of Jadu Nath Chatterjee and Sham Pal.

that petition. I don't remember whether Adhar brought a case against Durga Charan Kaora for enticing away his wife, and that the villagers were on the side of the Kaora, and the accused and Jadu Nath on the side of the Chaukidar.

I don't remember when I was examined by the police, whether it was on the Friday. I was examined by Rasik Babu, Sub-Inspector, once or twice. I think he wrote my statement once or twice. I told him on the Thursday evening at about 5 or 5.30 P.M. I think he came to Jadu Nath's house at 3 or 3.30 P.M. or 4 P.M. It is not true that he came in the evening or after evening (*shandayar pare*). Mahendra Katuria told him what I had said to him, and then Rasik Babu sent for me and questioned. Many people were present when I was examined,—Beni Doctor, Mahendra Katuria and others. I don't remember exactly whether I was examined on the Thursday. I first heard, on that Thursday, from Jadu Nath's wife, that Jadu Nath has taken away a *tabij*. It was at noon, or in the afternoon. I don't remember that I first heard it on Friday. I said it was on Thursday.

I was standing at the front-door of my house looking out for the baker, when I saw Jadu Nath that day. I asked Jadu Nath Chatterjee: "Where are you going?" He said: "In this direction." He was going north. He was alone. Jadu Nath's house is two or two and a half bighas from mine. I did not hear anything about the *tabij* in the morning when I went to the house of Jadu Nath. I went away seeing the *sindh*.

C. M. W. BRETT,

23*rd November* 1894. *Additional Sessions Judge.*

Witness No. 5.

The Deposition of KHADAN BEWA.

I am a widow. I know the accused Sham Pal and his house. My house is in front of Sham Pal's. Between our houses is some land of mine. I knew Jadu Chatterjee. In Bhadra I heard, on a Thursday morning, that Jadu Chatterjee's house had been broken into on the preceding night—Wednesday. On the Wednesday before that Thursday, I saw Jadu Chatterjee at 3 or 3.30 P.M. I saw him coming along the road from the Baniapara, and went into the house of Sham Pal. I was tethering my cattle when I saw him. After seeing him enter, I went into my house. He was wearing a white *dhuti* and a red-coloured (figured) sheet. He had his hands behind him. There was a small bundle in his hand.

Cross-examined by MR. GHOSE:—I was examined in the presence of two police-officers: the Sub-Inspector and Inspector. The body had been found before I was examined. I was examined once only.

On a day before the body was found, a Babu asked me whether I had seen Jadu Chatterjee on the Wednesday. I don't know on what day this was. I don't know the Babu by name. I don't remember now whether it was before or after the discovery of the corpse. I never told any of the villagers besides that Babu. For five or six days before that, I knew that there was a commotion in the village as to what had become of Jadu Chatterjee, and that the police had come to inquire. I have an old mother in my house. I am a Satgop. I have no relationship with Mahendra Katuria. I had no conversation with him about Jadu

Chatterjee. I did not see anybody besides Jadu Chatterjee on the road that day. I did not see Sham Pal that day.

Rakhal Ghosh was my brother. There was no criminal case between him and the accused. He with Lakhi Narain Ghosh and others did not bring any complaint before the Howrah Magistrate against accused.

That man (points out Ram Charan Ghosh, Head Constable) was—the man who questioned me—the Babu to whom I referred.

Re-examined:—My brother, Rakhal Ghosh, is dead. He died seven or eight years ago.

(Read over and admitted correct.)

C. M. W. BRETT,

23*rd November* 1894. *Additional Sessions Judge.*

Witness No. 6.

The Deposition of NRITYA BEWA.

I am a shop-keeper. I know the accused Sham Pal and his house. His house is close to my house. My house is on the Government road. A lane goes from the Government road past my house to the house of Sham Pal.

I knew Jadu Chatterjee. I heard that there had been a burglary in his house. I heard, on a Thursday in Bhadra, that his house had been broken into the previous Wednesday night. I also heard that Jadu Chatterjee had disappeared from his house that Wednesday.

On the Wednesday I saw Gentu going into the house of Sham Pal at about 8 A.M. I saw him leave at 4 or 5 P.M. Gentu is the son of Sham Pal's daughter.

On the Friday, ten days after Jadu Nath had disappeared, a Babu came and questioned me, and I told him that I had seen Gentu at Sham Pal's house. The Babu asked me if I had seen Jadu Chatterjee come to Sham Pal's house on the Wednesday he disappeared. I said: "No." He then asked: "Did any of Sham's relations come to his house that day?" I said, I had seen his daughter's son come to Sham's house that day.

Cross-examined by MR. GHOSE:—I don't know the *jât* (caste) of that Babu. I could recognize him if I saw him. That is the Babu (points out Ram Charan Ghosh, Head Constable). He questioned me after Jadu Chatterjee's body had been found. It was on the Friday after the discovery.

I was examined and my statement recorded by that police-officer (points out Rasik, Sub-Inspector); that was before the body was found. I then said nothing about Gentu.

On the Wednesday I saw Sham Pal's wife in the house of Khettra Ghosh. Sham Pal's wife came to my house at 4 P.M. that Wednesday, not at 2 P.M. or 2.30 P.M. I saw her later on at Khettra Ghosh's house. It was nearly sunset.

I did not tell the police-officer that Sham Pal's wife came to my house at 2 or 2.30 P.M. on that Wednesday.[1] I only said that I saw the wife at Khettra Ghosh's house at 5 P.M. I said Sham Pal called his wife home

[1] The statement of the witness before the police is set out at the end of her deposition.

a little before candlelight. He called her from the road. I did not see Jadu Nath Chatterjee near Sham Pal's house that Wednesday afternoon. When I told the police-officer that I had seen Gentu *chokra* (boy), I did not know that he had given evidence to the police. The police examined me first. My evidence was not recorded on the day I was examined first, but on the next day. Nobody wrote on the first day what I said.

The Babu had sat in my house for two hours that Friday. At first I said: "I had seen nothing, I had not seen Jadu Nath, or anything." Then he asked me whether any relations had come to Sham Pal's house on the Wednesday. Then I said: "I had seen Gentu." I was not taken to the Sub-Inspector or Inspector.

Gentu *chokra's* mother is dead. His father has married again. Gentu's sister is married to Jagabandhu Ghosh's son. I don't know whether Gentu comes to his sister's house. I had seen Gentu come to Sham Pal's house several times before that Wednesday. He used to come after every five days or so. Sham Pal's wife was very fond of him. She is Sham Pal's second wife. Gentu's grandmother is dead. I only saw Gentu on that one occasion in Bhadra at Sham Pal's house. I saw him in previous months. I did not speak to Gentu that day. I saw Gentu pass in front of my house at 9 or 10 A.M., and afterwards in the afternoon.

Re-examined:—Sham Pal's second wife has no children.

Read over and admitted correct.

C. M. W. BRETT,

23*rd November* 1894. *Additional Sessions Judge.*

Statement of Nritya Dasi, widow of Rasik Ghosh, recorded by Sub-Inspector Rasik Lal Bose on the 4th September 1894.

Last Wednesday at about 2 or 2.30 P.M. the wife of Sham Pal came to my house. I sat there for a short time, and then went to the shop of Ram Das. Sham's wife was then seated. On my return I did not see her. On coming back I went to wash my hands and feet in the tank attached to the house of Khettra Ghosh. I then saw Sham's wife sitting in Khettra Ghosh's house. That was a little before candlelight. Her husband Sham Pal called her from the outside of his house, and she then went home. On that day I did not see Jadu Chatterjee go to Sham Pal's house at any time between noon and 7 or 8 P.M. in the evening, nor did I see Sham Pal coming out on that day.

Witness No. 7.

The Deposition of MANMATHA NATH GHOSH, *alias* GENTU (aged about eight years):—

Q.—If you tell a falsehood what is it?

A.—It is a fault (*pap*).

Sham Pal accused is my grandfather, my mother's father. My mother is dead.

I went to Sham Pal's house once or twice to see my *Didima*, i. e. Sham Pal's wife. When I last went to the house of Sham Pal, I went in the morning. I saw my *Didima* and my *Dada* (i. e. accused and his wife) in his house. I took my breakfast at the house of Sham Pal. Sham Pal ate at the same time. After eating, Sham Pal, after taking *pan*, went out. Afterwards a Brahmin came to the house of Sham Pal. He was wearing a coloured cloth on his body. After he had come, my *Dada* (Sham Pal) came. The Brahmin said to Sham: "Tell me what you have to say." They were in the yard of the house in which we ate rice.

My *Dada* then drove me away, and I went outside. When I went out I found Gaur outside, whom I had previously called to play with me. I left my cloth with Gaur and went to ease myself. Afterwards I went and washed at the masonry steps of my *Dada's* tank. Gaur had been sitting at the steps. He said to me: "Some one is making noise (*hû hû*) in your house." We ran to the front-door of the house and heard sounds—*hû hû*. I then got out on the wall, and I saw my *Dada* was in the yard, and had hold of the Brahmin by the throat. My *Dada* let the Brahmin go, and the Brahmin fell down. I was very frightened and trembling and so came down.

Some time after, when it was getting near evening, I went to the back-door and asked my *Didima* to open it and let me in. When I had gone before and climbed on the wall I had found the door closed. Going into the yard I saw blood sprinkled in the yard. I asked my *Didima* what the stains were. She said it was the spittle of those who had been chewing betel. I went into the *dalan* to get my (*oorani*) thick sheet. I asked my *Dada:* "Whose are those feet which I see covered with a mat?" They were in the archway under the staircase. *Dada* said: "Be off." Afterwards my *Didima* gave me some palm fruits and some *amra* fruits. I then went home, and afterwards told my *Thakurma* (father's mother) that I have seen Sham Pal kill a Brahmin. She did not believe me, saying: "Where have you got this story from?"

I have seen the District Magistrate in my *Dada's* house. I showed him the wall which I got upon in the house, and also where I had seen the man's leg in the archway under the staircase. My father is in Dar-

jeeling. He was not at home on the day I saw what I have described. He brings fruits, and he belongs to a printing-office. He went to Darjeeling for work, and brought us fruit to eat.

Cross-examined by MR. GHOSE :—I don't know what *pap* is. If a man beats a Brahmin it is a fault. People suffer for a fault, but I don't know how.

I told my *Thakurma*, and afterwards the Magistrate, what I have said to-day. I told no one else. I did not tell any police-officer. I told a Babu who came on horseback. I have not spoken to any police-officer about it yesterday. I never spoke to anybody about it till to-day, since I was examined by the Magistrate.

I told my father when he came from Darjeeling. He questioned me. I saw the Babu on horseback not at my house. A servant, Pandu, called me to him. He lives in the house of the man who has been killed. Pandu took me to Bakshara. I saw the Babu on horseback in Bakshara. Pandu took me in a carriage. I don't know who else was with us. I live in Jogacha. It is not far from Bakshara. Pandu did not ask me anything, nor did I tell him anything.

That is not the Babu whom I saw on horseback (Ram Charan Ghosh, Head Constable, is referred to); I did not see the Babu in Jogacha. I saw him in Bakshara. He did not question me, nor did I tell him anything. I told my story to a Babu in the Brahmin's house. This Babu did not take me to the Brahmin's house. I know Nibaran Ghosh of Bakshara. He did not question me as to what I had seen. Srikrishna took me to Beni Doctor's Dispensary. That was before I was taken to the Brahmin's house.

The Babu on horseback is not one of those three

police-officers (refers to Ram Ghosh, Head Constable, Rasik Bose, Sub-Inspector, and Chiranjib, Inspector, produced).

I told the Inspector (points him out) at the Brahmin's house. Rasik, Sub-Inspector, went to the Dispensary and took me from there to the Brahmin's house. On hearing my story the Inspector sent at once for Gaur Hari. Gaur Hari did not say that he had not seen me or played with me within twenty or twenty-five days. At first he said he had not played with me. He did not admit then that he had played with me, nor that he had heard any sounds (*hû hû*). It was when he went before the District Magistrate that he said he had played with me that day.

I know Hira Lal, the son of Sham Pal. There is a quarrel between him and my father about a coat. Hira Lal refused to let my father have the coat unless he paid Rs. 4, and my father had to pay Rs. 4 to get the coat. I don't know when the quarrel arose. It was a long time ago. Since then my father and Hira Lal have not been on speaking terms.

My sister is married to the son of Jagabandhu Ghosh in Bakshara. I go occasionally to see them; not often. I don't know if I went in Bhadra. I went to Jagabandhu's house the day Pandu took me to Bakshara. I went to take my rice there. Srikrishna Ghosh was not there that day. I went to the Babu first, and in the afternoon to Jagu's house. I don't remember whether I went to my *Dada's* house on more than one day in Bhadra. That was the only occasion on which I was given *tál* and *amra* (palm fruit and plums). As I used to cry for those things, so my *Thakurma* said: "Go and fetch them." I then went to

my *Dada's* house. I did not cry that day, but on previous days.

The Brahmin had one or two grey hairs. He was not an old man. I did not tell the Magistrate that he had no grey hairs. I cannot say whether he was stouter or thinner than my *Dada*, or whether he was taller or shorter.

When I saw the men struggling in the yard, they were standing, and the Brahmin was shaking his hands and stamping his feet. My *Dada* had hold of his neck with both hands. He had not hold of my *Dada*. I did not see my *Didima* when I saw the men struggling. She was in the cook-house. The man fell as soon as my *Dada* let go of him. My *Dada* did not get on his chest after he had fallen. I then got down. I did not see what happened afterwards. I saw the blood in the yard towards evening. Gaur Hari ran away when I got up on the wall. I saw no more of him that day. I fetched Gaur from Kali Pal's house at midday.

I did not say before to anybody that the stains on the floor were the stains of betel-spittle, except to the Magistrate. I said so to him.[1] My own mother's mother is dead.

Re-examination:—Pandu brought me in a carriage from Bakshara, and then to the Magistrate's court. Srikrishna Ghosh took me to the dispensary from a Teli's house where I was playing. I was taken to the Brahmin's house from the dispensary. Srikrishna first brought me from Bakshara, and afterwards Pandu brought me.

I was taken before the Magistrate the day after

[1] The boy had never said this to the Magistrate on either of the two occasions when he was examined, *vide* Appendix.

Pandu brought me from Bakshara. I was questioned by the Magistrate that day.

The statement of this witness before the Magistrate on the 10th September is put in by the defence. (*Ex.* 2.) (See Appendix.)

C. M. W. BRETT.

23*rd November* 1894.

Witness No. 8.

The Deposition of BENI MADHUB CHATTERJEE, *alias* BENI DOCTOR, aged about 45 :—

I know Jadu Nath Chatterjee. I have known him for the last twenty-three years, while I have been in Bakshara. My house was one or one and a half *rasis* (sixty yards) from his house. I used to attend on him when he was sick.

There was a burglary in his house in Bhadra. I heard on a Thursday morning at 7 A.M., an outcry at Jadu Chatterjee's house. I went to his house to see what was the matter. I saw his wife there crying, and four or five neighbours assembled. Going into the yard I saw that a *sindh* had been cut under the window on the south wall of the room in which Jadu Chatterjee slept. I did not go into the house. I questioned Jadu Nath's wife. She said that her house had been broken into, and that she had not seen her husband since he was taken away by Sham Pal the preceding day after taking his rice. She said : "You had better ask Sham Pal." I asked her why Sham Pal had taken away her husband. She said Sham Pal wanted to sell an ornament which he had pledged with her husband. I

sent Pandu to call Sham Pal. Sham Pal came in about half-an-hour. Jadu Nath's wife cried and said to Sham Pal: "You took my husband yesterday; where is he? where have you taken him?" Sham Pal made no answer. We were sitting in the south verandah of the *baitakkhana.*

Pandu was sent with Uday Chaukidar to inform the police, by the Panchayet Nibaran Chakravarti, and information was given to him.

Sham Pal's eyes were red, and he appeared as though he had just bathed.

The police arrived a little before candle-light, just before,—Rasik Darogah and Sital Gangooli, Head Constable. The Darogah at first went inside the house and had a talk with Jadu Nath's wife. I don't know what about. He then came out and sat in the north verandah of the *baitakkhana.*

Sham was called by the police: I saw him. The Darogah asked Sham Pal: "Did you do this work?"

Q.—What work?

A.—Did you call Jadu Nath Chatterjee from his house yesterday?

Sham Pal said he came to the house and questioned Pandu about Hari Pan, but that he had not taken Jadu Nath from his house. Rasik then said: "Call Jadu's wife." She came. He said to her: "You say Sham Pal took away your husband, but Sham Pal denies it." Jadu's wife said to Sham Pal: "You took away my husband yesterday after his meal. Where is he?" She then said: "See, his eyes are red, he is bitten by mosquitoes, and his left thumb is swollen." The Darogah asked him how he had hurt his thumb. Sham Pal said a centipede had stung him. The Darogah asked him:

"Why have you mosquito-like bites on your body?" Sham Pal said: "I have no mosquito-net." I then went away. I was present when the corpse was found on Monday, the 3rd September, at 4 P.M. I was called from my dispensary by Sital Darogah. He was searching for the body. I joined in the search. At 5.30 P.M. I met Sital Darogah and five or six neighbours. He said: "Doctor Mahashay, the body has been found buried near a Brahmin's tank, covered with fresh *kachu* plants." I went with them. I remained with the Rasik Darogah at the ghat of Khettra Ghosh. The others went on searching. After half-an-hour I heard a cry from a spot one and a half *rasis* south-east of where we were. The cry was: "It is found." Rasik Darogah and I went to a garden east of Sham Pal's house—we went to the east of the garden; I saw a crowd collected. I saw in a drain between two gardens a mould of earth, and traces of a spade having been used. The earth was dug out, and a body was taken out. The body was the body of Jadu Nath Chatterjee. I recognized it by the general appearance, and by the toes being bent. He used frequently to sit with me. The place where the body was found is seven or eight *rasis*[1] from Jadu Nath's house and about one *rasi* from the house of Sham Pal. It was a jungle spot. Between it and Jadu Nath's house are houses and jungle. There is no house between that spot and Sham Pal's house. Jadu Nath Chatterjee was not in the habit of taking opium. He used to come to my dispensary and stay there till ten or eleven singing.

When I went to Jadu Nath's house on the Thursday

[1] A *rasi* is about forty yards.

morning, I saw Pandu and Jadu Nath's wife; no other members of the family.

There was a case brought against Sham Pal and Nibaran Chakrabarti and Ram Lal Ray, Panchayets, before the Deputy Magistrate's Court in Howrah. They were fined Rs. 25 on the 3rd September, the day the body was found.

Cross-examination:—(Deferred till to-morrow.)

C. M. W. BRETT,

23*rd November* 1894. *Additional Sessions Judge.*

Cross-examined by MR. GHOSE:—I am called Chatterjee as well as Chakravarti. I am known in the village as Beni Doctor. I have never taken any medical degree, nor studied in any medical school.

I have known Jadu Nath for 23 or 26 years. He never wrote to me. I see this letter (marked *Exhibit* 3)[1]; I cannot say whether it is in the handwriting of Jadu Nath Chatterjee and bears his signature. I have seen his handwriting occasionally. I cannot say whether the handwriting in that document is similar to Jadu Nath's. It may or may not be his.

Jadu Nath may have been 55 or 60 years old. He was older than the accused. He was not of stouter build than the accused. He was shorter than accused. Accused may be 50 or 52 years of age.

Jadu Nath was one of the Panchayets. I and others in the village presented a petition to have Jadu Nath and Sham Pal removed from the Panchayet. Jadu

[1] This letter was produced by the prisoner, to whom it was addressed, purporting to be written by the deceased. It was filed by the prisoner as a part of his statement at the trial.

Nath afterwards gave up his post as Panchayet (volunteers): I cannot say whether he gave up or was removed.

Jadu Nath Chatterjee and accused were friends. I and Behari have been appointed Panchayet in place of Jadu Nath and Harish Pal. I don't remember in what month. There has not been any general meeting to get Jadu Nath and Sham Pal discharged from the Panchayet. But people have consulted together two or three at a time. The petition was against five Panchayets, but we stated that Jadu Nath and Harish Pal did no wrong, but it was the other three, including Sham Pal, who oppressed us. Harish Pal joined in that petition and signed. That is my signature (shown *Exhibit* 1), and the first signature is Mahendra Nath Ghosh's (Katuria), and that is Harish's Pal's signature. I read that petition (the petition is read). There was another petition in which we excluded Jadu Nath. I referred to that petition. I cannot say whether it was presented before or after this one produced, or in what year or month.

EXHIBIT 1.

To the Magistrate of Howrah.

The humble petition of the undersigned inhabitants of the Northern and Southern portions of Mouzah North Bakshara, situated within the Police Station of Domjore. Our representation is that the present Panchayets of the aforesaid village are: (1) Nibaranchandra Chakravarti; (2) Ramlal Ray; (3) Shama Charan Pal; (4) Jadunath Chatterjee; (5) Harish Chandra Pal. These men have been employed as Panchayets of the village for some years. Through the action of the first four persons, great harm is being done generally to the residents of the village, and oppression is being committed from time to time. Those men, by reason of

the powers which they possess as Panchayets, secure their own personal ends, as will be found out, if necessary, on investigation. The fifth person does no work as Panchayet. Under these circumstances, it is prayed by this petition that the present Panchayets be changed, and that the undersigned be ordered to nominate new Panchayets.

16*th March* 1894.

Mahendra Nath Ghosh (Katuria), Patni Talookdar and Asst. Panchayet, Bakshara.
Sashibhushan Mukherji, Clerk and Asst. Panchayet, Bakshara.
Abinash Chandra Bannerji, Clerk and Asst. Panchayet, Bakshara.
Beni Madhab Chatterji, Doctor and Asst. Panchayet.
Mahendra Nath Chakravarti, Medical Practitioner and Collecting Panchayet.
Naffar Chandra Ghosh, Patni Zemindar, Bakshara.
Biddu Badan Pal, Bakshara.
Prasanna Koomar Kola, Bakshara.
Nibaran Chundra Ghosh.
Abdul Gunny.
Harish Chandra Pal, Present Asst. Panchayet.
Krishna Gopal Chakravarti.
Mohadeb Mukherji.
Haridas Chakravarti.
Doya Moy Bannerji.
Braja Nath Mukherji.
Prassuna Kumar Chatterji.
Mahadeb Ghosh.
Kala Chand Ghosh.
Ganesh Chandra Pal.
Shib Krishna Chatterji.
Hari Nath Mukherji.
Gopal Chundra Pan.
Haripada Pan.
Purna Chandra Pan.
Harish Chandra Ghosh.
Panti Ram Ghosh.
Ram Chandra Ghosh.
Baido Nath Ghosh.
Bhuban Chandra Ghosh.
Bhola Nath Mukherji.
Hem Chandra Kundu.
Makhum Lal Nandi.
Rajaram Pal.
Jadu Nath Nandi.
Iswar (illegible).
Khettra Chandra Dey.
Shama Charan Ghosh.
Shadhu Charan Dey.
Pria Nath Mukherji.
Dharmadas Bhattacharji.
Prasanna Kumar Chakravarti.
Indu Narain Swarnakar.
Jadu Nath Ghosh.
Shib Krishna Ghosh.
Ram Chandra Ghosh.
Rakhal Chandra Guchait.
Gonesh Chandra Ghosh.
Annada Prasad Ghosh.
Ambica Charan Ghosh.
Shama Charan Ghosh.
Prianath Ghosh, Zemindar.
Narain Chandra Ghosh.
Bhutnath Kundu.
Rajani Kanta Bhatta.
Sashibhushan.
Bijoy Kumar Bhatta.
Doorgadas Bannerji.
Jagabandhu Ghosh.
Chandi Charan Ghosh.
Gadadhur Ghosh.
Rajkrishna Ghosh.
Behari Lal Das.
Khettra Nath Ghosh.

Madhab Chandra Porel.
Haturam Ghosh.
Gopal Chundra Bera.
Nilkamal Nandi.
Haricharan Kundu.
Haradhoa.
Dijabur Nandi.
Mati Lal Dey.
Sheik Abdul Huk.
Sanyasi Pola.
Ambica Rak.

Note.—The signatures in Italics are in Bengali in the original, the rest in English.

There is no quarrel between Mahendra Katuria and Sham Pal. Mahendra brought a suit against him for road cess. I don't know whether Mahendra lost his case. The case was one and a half years ago. Chandi Ghosh had a suit brought against him by Sham Pal. Sham Pal also had litigation with Behari Das. Hari Ghosh brought recently a case against Sham Pal for illegally distraining, under the Chaukidari Act, of his *ghora* and *lotah*. I gave evidence in that case against Sham Pal on Tuesday, August 28, the day before Jadu Nath disappeared. Mahendra Katuria was a witness against Sham Pal in that case, so also Mahendra Chakravarti. There was no subscription raised in the village to get Sham Pal convicted in that case. Hari Pan also gave evidence against Sham Pal. The people who had previously petitioned against him did not try to get him convicted in that case.

Jadu Nath Chatterjee was in Howrah on that day (Tuesday), and was conducting that case on behalf of Sham Pal. Jadu Nath did not tell me to settle that case. He did not tell me and Mahendra Katuria: "All of you villagers are trying to get this man (Sham Pal) punished, I will see that he gets off."

Before yesterday in this court, I never told before the Magistrate or anybody else that on the Thursday morning, the 30th August, Jadu Nath's wife had charged

Sham Pal with taking away her husband with the *tabij* on the Wednesday, nor did I mention it to any pleader or muktiar. No one asked me any questions about what I knew on Thursday. I did not learn nor inquire how Mati Debi had been cross-examined in this court. I have made no statement to the police about this case which they recorded.

On the Thursday morning all the Panchayets were sent for to inform them of the theft. All came except Behari Das. Sham Pal was not sent for as a member of the Panchayet. I was there as a Panchayet that morning. Nibaran Chakrabarti wrote an information to the police in our presence (*amar shakhyate*). We all of us saw what he wrote. He read out afterwards what he had written. It was given to Uday Chaukidar and Pandu to take to the police.

(*Exhibit* 4 is shown to the witness.) The information was written on white paper, the size of that piece (witness reads the first six lines of *Exhibit* 4). It was written in the same terms as those. The only error is about the "4 P.M." It was written as "2.0 or 2.30 P.M."

(Counsel for defence reads *Exhibit* 4.)

শ্রীশ্রীদুর্গা

সহায়।

মহামহিম শ্রীযুক্ত ডোমজুড়ের থানার সার-ইনেস্পেক্টার মহাশয়

বরাবরেষু—

রিপোর্ট,

লিখিতং শ্রীনিবারণ চন্দ্র চক্রবর্ত্তী আদায়কারি পঞ্চাইত, আমার নিবেদন এই যে উত্তর বাকসারা গ্রামের শ্রীযদু নাথ চট্টোপাধ্যায়ের বাটীতে গত রাত্রে সিঁদ হইয়া সিন্দুকের তালা

খুলিয়া তাঁহার যাহা কিছু ছিল বন্দকি গহনা টাকা কড়ি ইত্যাদি যথা সর্ব্বস্য চুরি করিয়া লইয়া গিয়াছে। গত কল্য বেলা ৪টা হইতে উক্ত চট্টোপাধ্যায় মহাশয় কোথায় গিয়াছে তাহারও অনুসন্ধান পাওয়া যায় নাই, এইরূপ তাঁহার চাকর পাণ্ডুউড়ে ও তাঁহার বনিতোর মুখে শুনিয়া আমরা অকুস্থলে সাইয়া সরজমিনে দেখিলাম অতএব হুজুরে উদয় চৌকিদার মাঃ সংবাদ দিতেছি হুজুর সরজমিনে আসিয়া যাহা কর্ত্তব্য হয় তাহা করিবেন ইতি সন ১৩০১ সাল ১৫ই ভাদ্র।

শ্রীনিবারণ চন্দ্র চক্রবর্ত্তী,
সাং উত্তর বাকসাড়া।

To The Great in Dignity the Sub-Inspector of Domjore Thana.

Report of Nibaran Chunder Chakravarti, collecting Panchayet: —My representation is that in the house of Jadu Nath Chatterji of village North Bakshara, a burglary (*sindh*) was committed last night, and by opening the padlock of his chest all the pledged jewellery and money that he possessed have been stolen. No clue can be found as to where the aforesaid Chatterji went at 4 P.M. yesterday afternoon, or about himself. Having heard to this effect from his servant Pandu and his wife, we on coming to the scene of occurrence saw the locality. Therefore we are sending you this information through Uday Chaukidar. You will be pleased to come to the locality and do what is right. 15th Bhadra 1301 (30th August 1894).

Nibaran Chandra Chakravarti
of North Bakshara.

All of it is correct except the 4 P.M. None of us Panchayets raised any objection to what was written.

Morphia is not sold in my Dispensary, nor can it be bought anywhere in our village. I think morphia can be purchased without a prescription.

I was not present on Friday when the Sub-Inspector

searched the house of Sham Pal. Search was made in all the jungle round Jadu Nath's house and in the tank. I heard that the jungle round Sham Pal's house was searched. I did not see the search.

Sham Pal was away from the village from 10 A.M. at Howrah on the Monday that the body was found.

Re-examination:—I was not examined before the Magistrate till after Sham Pal had been committed to the Sessions.

C. M. W. BRETT,

24th November 1894. *Additional Sessions Judge.*

Witness No. 9.

The deposition of GAUR HARI, aged eight years.

Q. Is it good or bad to tell a lie?

A. It is bad.

I know Gentu. I know the accused Sham Pal. I don't know what relationship there is between them. I don't know what he calls Sham Pal.

One day Gentu came and called me to go to his *Dada's* house from the house of Kali Pal. We played together. Gentug ave me his cloth, saying: "I am going to ease myself." He came back to wash himself at the ghat, when I said: "Do you hear that sound of *hû hû?*"

Q. Where did you hear the sound come from?

A. (The witness looks blankly in front and will not answer.)

Gentu went to Sham Pal's house, and got on the wall by the seat. I ran away because I was afraid of the noise.

(The question noted above is several times repeated and no answer given.)

Cross-examined by MR. GHOSE:—Nobody questioned

me to-day, or on the last three or four days, what I was going to say to-day.

Q. Who did you come to court with to-day ?

A. I was brought in a carriage. (No further answer is given.)

Q. Who was in the carriage with you ?

A. No answer.

Q. Did you see that Inspector and Sub-Inspector at Bakshara ?

A. No answer.

Q. Did that Babu (the Sub-Inspector) ask you if you played with Gentu ?

A. No answer.

Q. Did you say to the Sub-Inspector that "I have not played with Gentu for the last twenty-five days, nor heard any sound ?"

A. No answer.

Q. When Gentu went to the privy what did he leave with you ?

A. His cloth.

C. M. W. BRETT.

23*rd November* 1894.

Statement of Gaur Ghosh, aged eight or nine years, recorded by Sub-Inspector Rasik Lal Bose, at 6 p.m., on the 7th September 1894.

I know the boy Gentu present here. I did not see him at all within the last 20 or 25 days. I never played with Gentu in Sham Pal's house, and I never saw Gentu taking *tal* and *amra* fruits from Sham Pal's house. I did not see Sham Pal take any Brahmin to his house on any occasion, nor did I see any one killing or beating anybody in Sham Pal's house. I never saw any man wearing a red cloth go to Sham Pal's house. I never heard any *hû hû* sound in Sham Pal's house.

Witness No. 10.

The deposition of KAPIL CHANDRA MALLIK.

I am surveyor and draftsman of the E. I. R. Company. I prepared this plan *Ex. H*, and the other plan *Ex. T;* the distances entered in plan *Ex. H* are approximately given. That plan is not prepared to scale, except the buildings. *Ex. T* contains the house and the garden of Jadu Nath Chatterjee. The house is drawn to scale, but not the garden. Both plans were prepared on the spot, and so far as I could make them, they are correct. In the statement attached to plan *Ex. T*, marked *Ex. T*, I have given the bolts and fastenings of the various doors and windows of Jadu Nath's house as requested by the Counsel for the defence.

What I have described in the plan as a bamboo fence is a fence of split bamboo.

There is an archway in the southern wall of Jadu Chatterjee's house, but there is no door there.

C. M. W. BRETT.

23*rd November* 1894.

I filed this map *Ex. K*, showing the plan of the house of Jadu Nath Chatterjee. The place where the body is said to have been found, which was pointed out to me, is 625 feet (=208 yds. 1 ft.) from the house of Jadu Nath Chatterjee, and 250 feet from the doorway of Sham Pal's house, and 120 feet from his land.

Cross-examined:—The window-shutters were closed by small wooden clits. The shutters were old, but not in a broken state. The sudder gate has two wooden bolts inside and a chain outside. Of Jadu Chatterjee's house the *baitakkhana* is newly built. The rest of the

house is old and impregnated with saltpetre. The windows are wooden.

C. M. W. BRETT.

24th November 1894.

Witness No. 11.

The deposition of BINDU BEWA.

Gentu *chokra* (boy) is the son of my son. I know the accused, Sham Pal. He is *Dada* (mother's father) of Gentu.

Gentu is always going to his *Dada's* house. In the middle of Bhadra, Gentu went to Sham Pal's house. He went in the morning. He returned at a little before dark. He brought some *tal* and *amra* (palm fruits and plums).

He said to me after his arrival: "See, Thakurma, I went to my *Dada's* house; my *Dada* has killed a Brahmin." I replied: "Wretched boy, what is this story you have got hold of?" He then went away, and I did not afterwards speak to him about it.

Cross-examined by MR. GHOSE:—On that Wednesday, Gentu began to cry, saying: "Thakurma, I want to eat *tal* fruits and *amras*." I then told him to go to his *Dada's* house. When Gentu said that his *Dada* had killed a Brahmin, I did not ask him who the Brahmin was, and why and how his *Dada* had killed him.

On the following day, Thursday, I heard the report in the village that Jadu Chatterjee had been killed. I told a Teli woman what Gentu had said, but did not question Gentu, or tell anybody else.

Gentu was taken to the police on Friday. I was not then at home. The next day I was taken to the police by Ram Charan Ghosh, Head Constable. He did

not ask me anything, nor did I say anything to him. I was afterwards examined, and my statements recorded by the Inspector and Sub-Inspector.

Nobody suggested to me that it would be enough if I said that Gentu said he saw the Brahmin seated in Sham Pal's house. I did not say to the police: "Gentu on his return said that he saw a Brahmin Thakur seated in Sham Pal's house." I asked him who was the Brahmin Thakur. Gentu said he did not know his name. Gentu did not say anything else. I did not say that to those two police-officers (the Inspector and Sub-Inspector); Ram Charan was there at the time. I said to them that Gentu brought some *amras* and no palm fruits. I said what was false because Sham Pal was my relation. There has been no quarrel between Sham Pal's son and my son. They are on good terms. If my son said that they had a quarrel about a coat, he said what was false. Sham Pal's son Hira Lal stole the coat.

My grand-daughter, Gentu's sister, is married to Jagabandhu Ghosh's son. I visit them and they me.

C. M. W. BRETT,

24*th November* 1894. *Additional Sessions Judge.*

Statement of Bindu Dasi, widow of Jadu Nath Ghosh of Jogacha, recorded by Sub-Inspector Rasik Lal Bose, on the 8th of September 1894.

Gentu *chokra* is my grandson. The day on which Jadu Nath Chatterjee, of Bakshara village, was killed, my grandson, Gentu *chokra*, went to the house of my son's father-in-law, Sham Pal, at about 9 or 10 A.M. At about 4 P.M. Gentu came with five *amras*. He brought nothing else. I asked Gentu: "Why did you come home to-day?" He said: "My *Didima* (mother's mother) told me: 'Go home to-day,' that is why I have come." Gentu said at that time: "I have seen a Brahmin Thakur sitting

in Sham Pal's house." I asked: "Who is the Brahmin Thakur?" Gentu answered: "I don't know his name." Gentu did not tell me anything else.

Witness No. 12.

Deposition of KALI PADA PAL, moulder.

I know accused Sham Pal. I live 150 cubits from his house. I know Gentu *chokra*, Sham Pal's grandson. I know Jadu Chatterjee. I heard on a Thursday in Bhadra that his house had been broken into.

On the day before, Wednesday, I saw Gentu at 8.30 or 9 A.M., in front of my house. He was going towards Sham Pal's house.

After that Thursday I heard a gun fired at night on two or three nights. The gun was fired from the direction of Sham Pal's house.

Cross-examined by MR. GHOSE :—I was going to the bazar when I saw Gentu. I did not speak to him. I did not see anybody else on the road. Nobody else was on the road.

Hari Pada Pal and Gapal Chandra Pal are not related to me. There is no Hari Pada Pal that I know of. There was a marriage in Manik Ghosh's house, one and a half years ago. I went there. I saw Sham Pal's son there. I did not see Sham Pal. There is a party-feeling in our village. I don't know that Jadu Chatterjee had been out-casted in the village. Mahendra Katuria and others in the village are fond of Sham Pal. He has no enemies in the village that I know of.

C. M. W. BRETT,

24th November 1894. *Additional Sessions Judge.*

Witness No. 13.

SRIKRISHNA GHOSH, a jeweller, aged about 30.

I know the accused Sham Pal. He is the father-in-law of my second brother. I know Gentu *chokra*. He is the son of Ram Charan Ghosh. I was sent one day by Ram Charan Ghosh, Head Constable, to bring Gentu. I went and brought him to the police at Jadu Nath Chatterjee's house from Jogacha. His grandmother was not at home that day. I took Gentu first to Beni Doctor's dispensary. Rasik Sub-Inspector questioned Gentu there, and then took him to the house of Jadu Nath.

Cross-examined by MR. GHOSE:—I questioned Gentu on the road. No one told me to do so. I did it of my own accord. I did not assist the police in getting up this case. I had not seen Ram Charan Ghosh, Head Constable, before he came to inquire into that case. My brothers' names are Rajkrishna and Shibkrishna Ghosh. They are on good terms with Sham Pal. They have no quarrel with him. Rajkrishna Ghosh knows English. I don't know whether he signs his name in English.

I see this signature on this petition (*Exhibit* 1, p. 53). I cannot say whether it is Shibkrishna, my brother's signature. Nor can I say whether that is the signature of Rajkrishna, my other brother. I know their handwriting, but I cannot say whether this is in their handwriting. I cannot say whether it is their handwriting, unless I see them write. The signatures are like theirs. I don't know whether my brothers ever petitioned to get Sham Pal turned out of the village. I never heard of anything of the sort. I returned to the village three

months ago after being away five years. I have never heard that Sham Pal has any enemies in the village.

My uncle Chandi Ghosh had a case against Sham Pal. I don't know whether the case is still pending. I was not examined by the police. I was examined before the Magistrate.

I know Rasik Bose, Sub-Inspector, and the Inspector. The Sub-Inspector never recorded my statement.

Re-examination :—Chandi Ghosh, my uncle, lives separate from me. For the last two months I have been living in my father-in-law's house. I am a jeweller. I cannot read and write well.

C. M. W. BRETT,
Additional Sessions Judge.

24*th November* 1894.

Witness No. 14.

SHAMA DEBI, aged about 40.

Mati Debi is my daughter. I went to her house in Bhadra last, three days after the death of my son-in-law. I went on a Friday. My son-in-law's dead body was found on the following Monday.

In the afternoon I was sitting in the verandah of my son-in-law's inner house, when two widows came and stood there. I did not then know their names. I know now that one was Lakhi and the other Pocha Bau.

Pocha Bau asked me : "Where is the Thakur's wife ?" I asked : "Why do you want to see her ?" I said : "She is sitting with the police." She then asked me : "What relation are you to her ?" I said : "Her mother." Pocha said : "The body has not been found. The police have not searched for it." I said : "I have not seen the police make any search. They only write a great

deal." She said: "Tell them to search in the drain near the Brahmin's tank where there is (*nata*) jungle. Over it are plants newly planted." I said: "What plants?" She said: "*Sati* plants, *kachu* plants, and others." I said: "Sit down, I will go and call the wife, my daughter." They said: "It is late in the day, we must go." I asked them again to stop, they went away.

The police were then in the *baitakkhana* about ten yards (points out distance) from where we were.

Afterwards my daughter came out from the *baitakkhana* and came to me. I told her what the women had said. She was cross with me, saying: "You should have kept the women when they told you such a thing." She then went back to the police after speaking to a Brahmin outside.

Cross-examined by MR. GHOSE:—The women came in by the back-door and went out by the back-door. That door is right in front of the *baitakkhana*. Before the women came I knew that Jadu Chatterjee had been killed. That I learnt on the day I came to the house. It never struck us that Jadu Chatterjee had gone somewhere, or had become a Sanyasi.[1] I don't know why I did not call my daughter before the women went. I thought I might offend the police. The police asked me which way the women had gone, and sent men after them.

I asked the women where they had heard their story about the body. They said: "Why should I tell you? Ask them to search, and we will tell them." I did not ask them who they were or where they lived. (Volunteers): Pandu went past in front of them.

[1] A Sanyasi is a mendicant. Sometimes men leave their homes and become *Sanyasis* or mendicants under assumed names, by reason of domestic or other troubles.

The police were not sitting on the south verandah when the women came.

C. M. W. BRETT,
Additional Sessions Judge.

Witness No. 15.

POCHA BAU, a labourer.

Lakhi told me that Jadu Chatterjee's body can be found in a drain belonging to the Brahmins, and *kachu* trees and *haldi* plants are planted on it. She told me to come with her to Jadu Chatterjee's house. I live in Satghara, which is about half a mile from Bakshara. I went with her. We went into the house of Jadu Chatterjee by the back-door and saw Jadu Chatterjee's mother-in-law sitting in the verandah of the house. She was weeping. Her daughter was not there. I said: "Why are you crying?" She said: "My son-in-law has not been found." I said: "There is some *nata* jungle in the Brahmins' drain; if you search there you will find the body buried, and *kachu* and *haldi* plants growing over it." She said: "Who has told you this?" I said: "Lakhi has told me. She asked me to tell you, so I have come." We then went away home.

I did not go to the house again. On the same evening a Chaukidar came to call Lakhi. I was not there. I was called to the police three or four days after Lakhi. She was taken the next day.

Cross-examined by MR. GHOSE:—I am a Satgop, and Lakhi is a barber (Naptini). She lives a little way from me in the same village. I am not friends with Lakhi. She milks my cow for the last four or five months. I only went to Bakshara because Lakhi asked me. Lakhi came to my house that day and took me.

She said: "The Brahmin's body has not been found (উঠে নাই). I have told you so, you must come with me, otherwise he will not be found." Three days before that Lakhi had told me in my house that Jadu Nath's body could be found in the jungle. I did not ask her how she came to know about the body. I have not up to now asked her how she got the information, nor has she told me.

We started at 4 P.M. and did not leave Jadu Chatterjee's house till 5 P.M. We stopped on the way at a Brahmin's, where Lakhi milked a cow. I did not go anywhere to buy anything. Kailas has a shop in Bakshara. At the time of returning Lakhi went to his shop to purchase oil-cake. We were at Jadu Chatterjee's as long as I have been in the witness-box (*i. e.* about a quarter of an hour). We went along the Bakshara main road. We went into Jadu's house to the south from the road by the entrance on our right. On entering I saw many police-officers seated there, constables and Chaukidars seated in the verandah.

I stood on the yard when speaking to Mati's mother. I did not know Jadu Chatterjee's house before. I asked where Jadu's wife was. She said: "She was sitting with the police." I did not go there, as there were many people there.

Lakhi told me to tell the information at the house. It is not true that Lakhi was cross with me for giving the information, and upbraided me.

Re-examination:—The police were sitting on the verandah towards the road. I went in by the side of Jadu Nath's house by the door. I entered by the Sadar door at Prasanna Chatterji's house.

C. M. W. BRETT,

24*th November* 1894. *Additional Sessions Judge.*

Witness No. 16.

LAKHI, a labourer.

I know Pocha Bau. I took her with me to Jadu Chatterjee's house, five or six days after he had been murdered. I heard that he had been murdered. Two days after, I heard it on the road.

I went with Pocha Bau to Jadu Chatterjee's house at 5 P.M. We found his wife's mother in the verandah, and Pocha said to her: "Lakhi says if you look in the drain near Sham Pal's land, you will find the body buried under *kachu* and *nata* plants." After saying this we came away. There was no other conversation between Pocha Bau and the mother-in-law. Pocha Bau asked the mother-in-law: "Has the body been found?" The mother-in-law replied: "No; where shall I find it?" Pocha Bau then said: "Ask Lakhi, she will tell you." Pocha Bau then said: "Lakhi says if you look into the drain you will find the body." I said to Pocha Bau: "You burnt-faced woman, why did you give this out?"

Pocha Bau knew about the body. I told her four days after the death of Jadu. I intended to come and tell, but could not.

Two days after Jadu Nath died, I was going along the road, through bamboo clumps, from Bakshara to Satghara. It was in the night, after sunset, when I saw two men going towards Ramkristopur. One of these men said: "I could not bury it very deep. A great sin has been committed. I have committed murder and theft. I have put the body in *nata* jungle, and have planted *kachu* plants on it. The rain will

help the *kachu* plants to take root." The other man said: "You have done wrong." As I was behind and in dark clothes they could not see me (volunteers this). I recognized one of the men. I could not recognize the other. I did not know the name of the man I recognized. I have seen him in Bakshara with his son frequently. I go to Bakshara every day. I cannot see him in Court. (Witness walks down the Court without identifying the accused.) I recognize him now, that man in the dock. He has a beard now, which he had not before.

Cross-examined by MR. GHOSE:—I had seen Pandu once in Mahendra's shop. I had seen him before in the village of Bakshara. I had never spoken to him. That day I had a quarrel in Mahendra Patra's shop.

Pocha and I went alone, except that Pocha had her daughter, five years old, in her lap. I had no child with me.

I have a boy ten years old—Manmatha. I did not say to the police or to any one that Pocha and I went with the boy to Jadu Nath's house that day.

That Babu (points out Ram Charan Ghosh, Head Constable) went to my house to call me. He took me to the Dattas' Dalan (house) near mine. It was then 9 or 10 A.M. Five or six days after the occurrence Babu took me to the Dattas' house. It was on the day I saw the Sahibs. I was examined in presence of the Sub-Inspector Rasik. I did not say to the police that I went with Pocha and my son to Jadu Chatterjee's house. I told the name of my son to the Sub-Inspector.

I saw Ram Charan, Head Constable, before I saw the other. He questioned me at the Dattas' house.

It was a dark night when I saw the two men, and overheard the conversation. I was about five yards from them. (Points out distance.) They were going along. I was behind them. I heard only what I have mentioned. I could not hear quite distinctly, but heard a few words of what they were saying. Sham Pal said: "I have killed Jadu Brahmin," naming him. The other man said: "Have you kept the body carefully?" Then Sham Pal said that he buried the body in the jungle as I have stated. The other man asked Sham Pal: "Have you planted *kachu* and other plants on the grave?" Sham Pal then said he had. I only heard mention made of *kachu* plants.

I went to milk in the house of Prasanna Gochait, and the house of the mother of Ganesh on that day when I was returning. I milk the cows of all the persons in that quarter. (Volunteers): I don't milk the cows in the quarter where Beni Doctor lives.

After I had returned from Jadu Chatterjee's house, Pandu and a Chaukidar came to my house after evening and said: "The Thana (police) people are calling you." I said: "I cannot come now, I have cows to milk." They did not tell me what I was wanted for, nor did he ask me whether I had been to their house.

I did not go to Jadu Chatterjee's house with the intention of giving out the information I had received. I said to Pocha: "They can't find the corpse. If I give out, they can." On the day as we went to Jadu Chatterjee's house I told where the body could be found. Pocha wanted to go to Jadu Nath's house. She called me and took me with her, saying she could not go alone being a woman. (Volunteers): We went in by the Khirki (back-door).

Re-examination:—The day after the finding of the corpse, or two days after, I was called to Jadu Chatterjee's house by a Chaukidar, I was taken to the police. That is the man (points to Rasik Lal); I told him everything.

Afterwards the Head Constable took me to the house of the Dattas.

C. M. W. BRETT,

24*th November* 1894. *Additional Sessions Judge.*

Statement of Lakhi Bewa, Naptini, of Satghara, recorded by Sub-Inspector Rasik Lal Bose on the 4th of September 1894.

On being questioned states :—Last Friday, after evening, I was returning to my own house after having milked a cow in the house of Poran Ghosh, deceased, of village Bakshara. On the road under the bamboo clump of Meher Ganguli, I saw this Shama Charan Pal, and ahead of him an unknown fair-complexioned man whose name I do not know. This Sham Pal said to the other man : "Brother, I have committed a very bad act. I have not kept it in my garden. I have buried it in another garden." His companion remarked : "Have you planted any plants on that spot ?" The aforesaid Sham Pal replied : "I have planted plants, and no one has been to that spot, I have heard." When I heard this conversation, there was no one there, and Sham Pal and his companion were going towards Ramkristopur. Afterwards, yesterday afternoon, I went to the house of Jadu Chatterjee with my neighbour Pocha Dasi, wife of Jaga Sirkar, and my son named Manmatha Ghosh, aged ten years. On seeing that there was crying and lamentation in the house of the said Jadu Nath Chatterjee, I said : "Why are you searching so much ? If you search a garden next to the garden of Sham Pal, you will find." On saying this, as it was getting late, I went home.

At this stage of the case the Judge inquired of the Government Pleader how many more witnesses the prosecution were going to call, remarking : "This is a most extraordinary case. Your case seems to be that all the police papers are forged."

The Government Pleader said he had a few more witnesses.

The JUDGE:—"You had better put in the evidence of the Civil Surgeon and the Chemical Examiner's report now, so that the jury may know at this stage what they disclose."

The Government Pleader then read out the following depositions of the Civil Surgeon and the reports of the Chemical Examiner[1]:—

MEDICAL EVIDENCE.

The deposition of Dr. H. B. Purves, taken on oath under the provisions of Act X of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Dr. Purves.

I am Civil Surgeon of Howrah. I examined a body brought on the 4th September. It was identified by Constable Sarup Dewan Singh and another man Akhoy Kumar Banerjee. The body was very much decomposed, all the tissues had softened. There were no external injuries noticeable, except one small wound on the scalp which was slight, but owing to decomposition it was impossible to say if it was done before or after death. The organs were all very much decomposed. The brain was almost fluid. The bones were carefully examined but no fractures were discovered.

[1] The deposition of a medical witness before the Committing Officer as well as the report of the Chemical Examiner are admissible without proof under the Indian Criminal Procedure Code and the Evidence Act.

The stomach, which was decomposed, contained a full meal of rice, &c. The stomach and contents were preserved for analysis.

The particulars in the report (*Exhibit F*) are all accurate so far as I can affirm. Owing to the advanced stage of decomposition it was found impossible to come to any conclusion as to the cause of death.

I was present at the examination, and made it with the Assistant-Surgeon, Amrita Lal Deb. I did not notice the feet particularly, nor any deformity in the feet.

Q.—It has been said that the body was identified by the deformities of the toes. Can you say if the body was in such a state that this could be noticed?

A.—No, I cannot say this. The man might have been five to seven days dead.

I did not notice anything about the mouth; so far I remember the mouth was so swollen that it could hardly be said whether it was open or not. If anything, it was open, to the best of my recollection, and his lips black and swollen.

Q.—If a man is throttled by another, would there be any shedding of blood?

A.—It is possible that there might be, but it is not necessary.

Q.—One of the witnesses who says that he saw the accused strangling the deceased, has said that when he went to the scene of the occurrence, he saw blood on the ground. Would this have occurred if the deceased had been strangled as alleged?

A.—If there had been great violence used it might have caused bleeding from the nose, or in the struggle the deceased might have bitten his tongue.

If a man is throttled the mouth may be open or may be shut. Throttling does not necessarily keep the mouth open.

Read over and translated to the accused and admitted correct.

E. W. COLLIN,
District Magistrate.

By the Court:—

In severe strangulation where much force has been used, one would expect to find the wind-pipe (larynx) reddened, and perhaps an effusion of blood. In this case though the mucous membrane of the larynx was red, it is impossible to draw any conclusion owing to decomposition, which had softened it.

Read over and admitted correct.

E. W. COLLIN,
District Magistrate.

14*th September* 1894.

EXHIBIT F.

POST-MORTEM REPORT.

DATE AND HOUR OF DESPATCH.	DATE AND HOUR OF EXAMINATION.	INFORMATION FURNISHED BY THE POLICE OR PARTICULARS OF THE CASE.
4th September 1894 at 6 A.M.	4th September 1894 at 8.30 A.M.	NAME—Jadu Nath Chatterjee. SEX—Male. AGE—60 years. CASTE—Brahmin, of village Uttar Bakshara, about 8 miles E. and S. from Police Station, Domjore.

HISTORY OF CASE.—The man is said to have been murdered. He was not found in the village since the

afternoon of the 29th August 1894. On the night of the 29th, a burglary, with heavy theft of property, was committed in his house. Yesterday about 6 P.M., his body was found buried under earth in a deep jungle between the gardens of Tripura Debi and Govinda Majhee; small trees and plants were newly rooted on with the intention of making the people believe that the place was not newly-dug. The deceased was a dealer in mortgaging gold and silver ornaments, &c. The body is decomposed, consequently no marks were visible on the person.

CONDITION OF SUBJECT.	WOUNDS.	BRUISES.	STATE OF NATURAL ORIFICES, &c.	SPECIAL MARK ON BODY.
Stout-looking.	*One scalp wound about 1½ inches long, bone not exposed. Whether ante-mortem it is impossible to say owing to decomposition.*	*None.*	Eyes. Ears. Nostrils. Mouth. Vagina. Anus. Urethra. Rigor Mortis—*Nil.* Condition of hands. } Clenched, Features—relaxed or contracted } *Nil.* Thorax, Ribs, Cartilages } *Entire and decomposed.* Pleura—*Decomposed.*	*Full of hair.*

Peritoneum.

Pericardium—*Walls decomposed; empty.*

Heart { Shape and appearance; Cavities; Clots *ante* or *post-mortem*; Muscular structure } — *Both sides empty. Walls decomposed.*

Vessels—*Healthy.*

Lungs { Appearance; Colour; Consistence; Adhesions; Larynx } — *Much decomposed.*

Trachea and bronchi for foreign bodies or disease.

Mucus membrane is red.

Abdomen
Peritoneum
Peritoneal cavity contents
Liver and gall-bladder, form and size, disease or injury.
— *Decomposed.*

Stomach—*Decomposed. Contained a full meal of rice, preserved.*

Intestines—*Contained some fæcus. Walls entire and decomposed.*

Generative organs—

Bladder and contents—*Empty, walls decomposed.*

Head

Scalp

Bones—*All right.*

Membranes

Brain substance and ventricles — *Decomposed.*

The spinal canal need not be examined unless any indication of disease or injury exist—*Nil.*

Fractures and dislocation—*Nil.*
More detailed description of injury or disease } *Nil.*

OPINION AS TO CAUSE OF DEATH.

Owing to advanced stage of decomposition, no opinion could be formed as to the cause of death. The stomach and contents, part of the liver and kidney, have been preserved.

AMRITA LAL DEB,
Assistant-Surgeon.

4th September 1894.

I examined the body with the Assistant-Surgeon, and agree with the above opinion.

H. PURVES,
Civil Surgeon.

4th September 1894.

Reports of the Chemical Examiner.

The following reports were then tendered as evidence under Section 510 of the Criminal Procedure Code and read out to the jury :—

EXHIBIT M.

No. 751 B.

FROM

THE CHEMICAL EXAMINER TO GOVERNMENT,

TO

THE CIVIL SURGEON, HOWRAH.

Dated Calcutta, the 1st October 1894.

Your letter No. 7, dated the 8th September 1894, advising a glass bottle per Bhagwan Dome stated by you to have been despatched on the 8th September,

and which was received in this Office on the 10th September 1894.

MODE IN WHICH PARCEL WAS FOUND TO BE PACKED ON RECEIPT. DESCRIPTION OF SEAL AND WEIGHT.

The cork of the bottle was tied over with leather and twine, and the knots sealed over with an impression corresponding with the seal impression forwarded.

The glass bottle with contents weighed 2 lbs. 8½ oz.

COPY OF LABEL ATTACHED TO PARCEL, &C.

The label on the glass bottle agreed with the label forwarded.

DESCRIPTION OF ARTICLES RECEIVED IN PARCEL.

The glass bottle contained a stomach, portions of liver and kidney, together with a large quantity of undigested food.

RESULT OF CHEMICAL ANALYSIS.

Traces of morphia have been detected in the human viscera contained in the glass bottle.

CHUNI LAL ROSE, *L.M.S.*,
Assistant Chemical Examiner to Government.

No. $\frac{b}{565}$ dated Howrah, 3rd October 1894.

Forwarded in original to the District Superintendent of Police, for information with reference to his No. 1080 of the 7th September 1894.

H. PURVES,
Brigade-Surgeon, Lieutenant-Colonel.

No. 787 B.

FROM

THE CHEMICAL EXAMINER TO GOVERNMENT OF BENGAL,

TO

THE MAGISTRATE OF HOWRAH.

Calcutta, the 22nd October 1894.

SIR,

In reply to your letter No. $\frac{g}{1135}$ dated the 19th October 1894, I have the honour to reply as follows :—

2. The material extracted from the viscera of Jadu Nath Chatterjee gave the chemical reactions of morphia only. No evidence of the presence of the principles of opium was obtained. The inference is, I think, admissible that morphia and not opium was ingested.

3. The use of the term "traces" is meant to indicate so small a quantity that though its presence is ascertained by chemical tests, purification and quantitative estimation are not practicable.

4. As regards the medico-legal import of minute quantities of alkaloidal poisons found in viscera, I have the honour to quote the following extracts from Taylor's *Medical Jurisprudence*, third edition, pages 371-372 :—

"Four cases are known in which a dose of one grain of hydrochlorate of morphia has proved fatal to adults. The first case occurred to Dr. Peterson in December 1845. The morphia was taken in divided doses in six hours. The symptoms were of the usual character, and insensibility came on rapidly. The patient died in about seven hours. The second case occurred at St. Mary's Hospital, May 1861. A man at 45 died in

thirteen hours from a dose of one grain of hydrochlorate of morphia prescribed in a pill by one of the physicians. The symptoms came on in about three hours, and were of a well-marked character. No morphia was detected in the stomach or other organs, and its operation as a poison was ascribed, without any apparent ground, to disease of the kidneys. In the third case a healthy man at 52 died in about ten hours from the effects of one grain. . . . No morphia was detected in the stomach. The Editor met with a case in which two doses each of half a grain of hydrochlorate of morphia are supposed to have killed a man in middle life. Morphia was discovered in a minute quantity in the body after death."

These extracts serve to show that the medico-legal authority quoted, considered that a fatal dose of morphia might be administered, and yet no trace, or only a minute quantity of the poison, be discovered on chemical examination of organs after death.

Further, in page 375, he states that "it is not always that in fatal cases of poisoning with opium or its tincture, even when they are taken in large quantity and death is speedy, one can succeed in detecting traces of morphia in the stomach. It is probably removed by vomiting or absorption."

Taylor in page 260, first edition, states as his experience of opium poisoning, that "cases also have often occurred in which adults have died from the effects of a considerable dose of opium, and yet it has been found impossible to detect the poison after death in the viscera."

5. The above recorded facts have been frequently corroborated in the medico-legal work in this Laboratory.

I am accordingly quite unable to state what the quantity of morphia ingested may have been. In other words, it is quite impossible for me to say definitely that death was due to morphia poisoning. I can only say that morphia was discovered in the viscera after death, and that its quantity was such as frequently occurs in authenticated cases of fatal morphia poisoning.

. . . I have the honour to be,

Sir,

Your obedient Servant,

J. J. EVANS,

Surgeon-Captain,

Chemical Examiner to Government.

The following deposition of the Civil Surgeon, recorded by the Magistrate after the receipt of the above reports, was also tendered under Section 509 of the Criminal Procedure Code :—

BRIGADE-SURGEON LT.-COL. H. PURVES (recalled), dated 2nd November 1894.

My name is H. B. PURVES. I am Civil Surgeon of Howrah.

Q.—The Chemical Examiner's reports on the viscera of the deceased, Jadu Nath Chatterjee, which were sent by you after the *post-mortem* examination, show that traces of morphia were found. Was there anything in the *post-mortem* examination which would give any indication of poisoning by morphia?

A.—No opinion could be formed as to the presence of morphia or any other cause of death, as the body was too decomposed.

Q.—In ordinary cases would there be any indication of the presence of morphia?

A.—There would be no definite signs in the viscera at the *post-mortem* which would indicate morphia with any certainty. Chemical analysis is necessary.

Q.—What is a fatal dose of morphia?

A.—It depends upon the peculiarities of the individual, *i. e.* whether accustomed to it or not. One grain has been known to be a fatal dose.

Q.—It is in evidence that the deceased was healthy, and was not an opium-eater. What would be the effect of a poisonous dose of morphia upon him?

A.—The effect might begin in five minutes to half-an-hour. The person would feel stupid and giddy, and this feeling increases until stupefaction ensues. At the early stage the patient can be aroused by stimulation.

Q.—Can you say within what time stupefaction takes place?

A.—This varies with the individual and the amount of morphia which has been taken.

Q.—Does morphia have the effect of exciting the patient?

A.—At first it may have the effect of exciting him by a feeling of exaltation.

Q.—Does a patient who has taken morphia make any peculiar sound?

A.—It brings a heavy stertorous breathing. The noise of this could be heard a short distance only. It does not necessarily induce groaning or moaning.

Read over and admitted to be correct.

E. W. Collin,

2nd November 1894. *Magistrate.*

Witness No. 17.

MAHENDRA NATH PATRA, aged about 40.

I am a shopkeeper in Bakshara, within the municipal limits. There is a road defining the muncipal limits. I know Pandu. He makes purchases at my shop. I know Lakhi Naptini of Satghara. She used to purchase at my shop. I knew Jadu Nath Chatterjee.

I remember the discovery of his dead body. At about 2 or 2.30 P.M. on that day Pandu came running to my shop. He said: "Who is the woman from Satghara who came here to buy things?" I said: "One Lakhi Naptini buys things." Pandu ran off eastwards.

Cross-examined by MR. GHOSE:—I have known Jadu Chatterjee for 20 or 25 years. He was my *mahajan* (creditor), and used frequently to come to my shop. Pandu did not stay in my shop for two or one night, certainly not for a fortnight or a month. There was no such *golmal* (commotion) in the village because I allowed Jadu Chatterjee to smoke the Brahmin's *hooka* in my shop. I don't know Jadu Chatterjee's handwriting. I don't remember whether I was examined by the police sixteen days after the discovery of the body or before, *i. e.* three or four days after.

I was examined by the police two or three times, first by this Sub-Inspector (points out Rasik) and afterwards by Abinash Darogah of Sibpore. On the last occasion that Head Constable (points out Ram Charan) was present.

I was not examined three times on one and the same day.

I don't remember if in my statement I said Pandu

came about 12 noon to question me about the woman. (Page 69 of Police Papers, 20th September, read.) I did not say afterwards (page 72 read) that Pandu came to my shop on the morning of the following day after the discovery of the body. I may have said that he came on the day of the discovery of the body at 3 P.M.

Besides Lakhi nobody else of Satghara comes to my shop to make purchases.

I was once convicted and whipped for theft, five, six, seven or ten years ago.

C. M. W. BRETT,
Additional Sessions Judge.

28*th November* 1894.

Statements of Mahendra Patra, recorded under Section 161 *of the Criminal Procedure Code, on the* 20*th of September* 1894, *by the Police, and forming pages* 69-72 *of the Police papers.*

STATEMENT NO. 1.

The witness Mahendra Patra, of Bakshara, on being questioned stated :—I have a grocer's shop in the village of Bakshara. At about 12 noon or 1 P.M. of the day on which Jadu Nath Chatterjee's corpse was found, Pandu Uriya, the servant of Jadu Chatterjee, came to my shop and said: "Can you tell me what is the name, and where is the house of the woman who occasionally buys oil-cakes, &c., for cows from your shop?" I said: "A woman named Lakhi Naptini of Satghara village frequently takes oil-cakes, &c., for cows from my shop." I know nothing else.

STATEMENT NO. 2, ALSO RECORDED ON THE 20TH SEPTEMBER 1894.

Witness Mahendra Patra on being questioned said :—I have a grocer's shop in Bakshara village. On the day that Jadu Chatterjee's corpse was found, at about 3 P.M., Jadu Chatterjee's servant, Pandu Uriya, came to my shop and asked: "Can you tell me the name, and where is the house of the woman who frequently takes oil-cakes from your shop?" I said: "A woman of the name of Lakhi Naptini of Satghara village often takes oil-cakes for cows from my shop." I know nothing more.

STATEMENT No. 3, ALSO RECORDED ON THE 20TH SEPTEMBER 1894.

Witness Mahendra Patra, of Bakshara, being questioned said :— On the morning of the day following the day on which Jadu Chatterjee's corpse was found, Pandu Uriya, the servant of the aforesaid deceased, asked : "Can you tell what is the name, and where is the house of the woman who frequently takes oil-cakes, &c., for cows from your shop?" I said : "A woman named Lakhi Naptini of Satghara frequently takes oil-cakes for cows from my shop." I know nothing else.

Witness No. 18.

BASANT KUMAR MOOKERJEE, aged about 50.

I know Jadu Chatterjee's house. It is five or seven minutes from my house. I was present the day after the body was found. I was not present when the body was found. I went the day after, in the morning, and saw where the body had been dug up. There was dense jungle all round. I and others were looking about in the jungle when I saw this *namabali* cloth (produced), part of which was hanging to the tree, part lying on the ground. It was seven or eight feet to the east of the spot where the body had been found. I went and told the Inspector. He sent the Sub-Inspector and a Chaukidar. I pointed out the cloth, and the Chaukidar took it away.

This is the *namabali* (*Exhibit B*).

Cross-examined by MR. GHOSE :—Hari Nath Mookerjee is my grand-nephew. I cannot say if that is his signature on the top of *Exhibit* 1 (p. 53). I was not in the village the day when the body was found.

I went to call Lakhi Naptini. Sital Ganguli and

Pandu went with me. It was 8 or 8.30 A.M. It was before I found the *namabali*. I did not bring Lakhi for any other reason except that I went to find her.

Re-examined:—Sital Ganguli was, I think, Head Constable of Bally. This Head Constable is he. He was not in uniform when he went with me. I went for Lakhi at the request of Inspector Samuells.

Hari Nath is my Gyánti Nati (grandson).

Read over and admitted to be correct.

C. M. W. BRETT,
Additional Sessions Judge.

Witness No. 19.

SARUP DEWAN SING, Constable.

I was present when the body of the man identified as Jadu Chatterjee was found. It was made over to my charge by Rasik, Sub-Inspector in Bakshara, and I took it to the Howrah Hospital. Akhoy Banerjee came with me. I took the body to the Howrah dead-house, and afterwards identified it to the Civil Surgeon, and I was present at the *post-mortem* examination.

Cross-examined:—I did not know that the body was that of Jadu Chatterjee.

C. M. W. BRETT,
Additional Sessions Judge.

Witness No. 20.

AKHOY KUMAR BANERJEE, aged about 40.

Jadu Chatterjee was the husband of my sister Mati. I heard that there had been a burglary in his house

the preceding night on Thursday, in Bhadra, in the morning at 7 A.M., and went to the house at 8 A.M. I saw a *sindh* cut in the wall under the window of Jadu Chatterjee's room, and my sister Mati crying, and my daughter standing there. My daughter is Tincowri, aged five years.

I questioned my sister. She told me that her husband had gone away at 2.30 P.M. the previous day, at the call of Sham Pal, that since 7 he had not returned, that the burglary had been committed at night, and she could not understand what it all meant. My daughter had been living at Jadu Chatterjee's house for about six months before that date. I was present on the Monday following at about dusk where the body had been buried and saw it. The earth had been taken off the body, and the body was lying in the excavation. At 1 A.M. the body was taken out and carried on to the road. I then recognized the body as Jadu Chatterjee's by the bent toes, by a spleen mark on the abdomen, and by its general appearance.

The body was sent to the hospital in my charge. I identified it as Jadu Chatterjee's to the Doctor at 8 A.M., the day after our arrival, and was present at the *post-mortem* examination.

Cross-examined by MR. GHOSE:—I used to visit Jadu Chatterjee once or twice a month. I do not know his handwriting. I have seen his handwriting. I cannot say whether this (*Exhibit* 3) is in his handwriting.[1]

I know Mahendra Katuria. I have seen him at the Cutcherry (Court-house) once during this case. I don't know if he is conducting this case.

I don't know Prasanna Chatterjee's handwriting. I

[1] See p. 108.

did not state before the Magistrate and police that my daughter was at Jadu Chatterjee's. I was not asked. I did not tell the Magistrate that my sister had told me that Sham Pal had called away Jadu Chatterjee. I told the police; at least I might have told Rasik, Sub-Inspector, on the day he came to inquire into the case.

Pandu Uriya had gone to the Thana (Police Station) before I went to Jadu Chatterjee's house. I heard at 9 A.M. that he had gone.

Deposition before the Magistrate put in. (See Appendix.)

C. M. W. BRETT,

28*th November* 1894. *Additional Sessions Judge.*

Witness No. 21.

HIRU BAGDI, diver.

I was taken by the police about four months ago to Bakshara to search three tanks.

In a tank which I was told was Sham Pal's, I found this box (*Exhibit D*). It was opened and contained weights. Kaldi was diving with me. He found this small tin box (*Exhibit D*2). Inspector Samuells and another Sahib were present at the time. I made the box over to Rasik Darogah.

Cross-examined by MR. GHOSE:—The tank in which we dived is by the side of a lane—not a public lane.

C. M. W. BRETT,

28*th November* 1894. *Additional Sessions Judge.*

Witness No. 22.

KALI DALUI, diver.

I was taken by the police and dived into a tank said to be Sham Pal's, and found this small tin box (*Exhibit D*2) in the water. It was three months ago.

No cross-examination.

C. M. W. BRETT,

28*th November* 1894. *Additional Sessions Judge.*

Witness No. 23.

RASIK LAL BOSE, Sub-Inspector of Domjore Thana.

I am now under suspension—since the 18th September—until the conclusion of an inquiry to be made into my conduct in connection with this case.

Pandu gave me the first information in this case. This is the same (*Exhibit E*),[1] and with it this report of the Panchayet (*Exhibit* 4).[2] I went off to Bakshara to Jadu Chatterjee's house, and took the statement of Jadu's wife. This is it (*Exhibit A*).[3] I did not send for any one after taking her statement.

I know Sham Pal. I have known him since this case. I never knew him before. He was a Panchayet in the village. I have known that he was Panchayet for two years. I saw Sham Pal the day I went to make the inquiry and took the deposition of Jadu Chatterjee's wife. I saw no marks on his person then.

Next day, at 10.30 A.M., I saw a slight swelling on the thumb of one of his hands; it was not of importance.

[1] Set out in p. 31. [2] Set out in p. 56. [3] Page 21.

He said it was the result of a scorpion-bite. This was after I had searched Sham Pal's house and he had been brought to Jadu Chatterjee's house. I saw he had a few mosquito-bites on his shoulders and back. Jadu Chatterjee's wife, Mahendra Ghosh and others pointed out the marks to me.

Early in the morning of Friday, the 31st August, I commenced to search Sham Pal's house at 6 A.M. I went to search the house because Jadu's wife Mati had stated in her deposition that Sham Pal had taken away her husband at 1 or 2 P.M. on the Wednesday, and she and all the villagers suspected him. I determined to search Sham Pal's house when I heard the woman's statement. I had a watch put on, to see who went to and fro during the night. It is not mentioned in my diary. I had the *bagan* (gardens), jungle, and tanks in the village searched, both at Sham Pal's house and elsewhere.

I searched the house of Jadu Chatterjee and his tank and garden in order to find the padlock and key of the chest which were missing. I have recorded in my diary when I made the search.

I examined Kebal Ram Mookerjee on the afternoon of the 31st August at 5.30 P.M.

The body was found on the 3rd September. I received information that news had been brought of where the body would be found, on 4 P.M. on that day. And I sent off Pandu to find the women who had given the information. He said he did not know who the women were, and gave me no information about them that day. The following day I heard the name of one of the women—"Lakhi," from Pandu.

I was not present when Lakhi was called. Sital

Ganguli, Head Constable, was sent by the Inspector and District Superintendent to call Lakhi. I did not find her or examine her. Sital Ganguli made over her deposition to me on the 4th September.

Jadu's wife Mati Debi, Beni Doctor, Akhoy Banerjee, Mahendra Ghosh and others, identified the body when produced as the body of Jadu Chatterjee. I know Ram Charan Ghosh, Head Constable. I first saw him in the village at 5 A.M. on the 5th September. He said he had come to help me in the inquiry, and had an order to that effect.

I know Gentu *chokra*, in this case. I first saw him at Jadu Chatterjee's house when he was brought by Ram Charan, Head Constable, Beni Doctor, and a constable. Before that I had not seen the boy at Beni Doctor's dispensary. After the boy was examined, the Inspector and I went with him to Sham Pal's house, and he pointed out certain parts of it to us.

I questioned Lakhi before the boy Gentu was examined. She identified Sham Pal to the Inspector as one of the men she mentioned, and also another man, Nibaran Chakravarti Panchayet, as like the other man.

I mentioned the mark on Sham Pal's thumb and the mosquito-bite in my diary.

I examined Sham Pal on the 31st August last and recorded his statement. This is the statement. *Note by the Judge* :—(The witness reads it out to refresh his memory, and the same is put in as evidence, *Exhibit P*. It is useless for me to record the whole of what is written and read. If necessary, the statement *Exhibit P* may be read as part of this deposition.)

EXHIBIT P.

Statement of Shama Charan Pal recorded by Rasik Lal Bose, Sub-Inspector, on the 31st of August at 6 A.M.

Shama Charan Pal states:—Day before yesterday, the 29th of August, at about 2.30 or 3 P.M., I came to the house of Jadu Nath Chatterjee; he was then sitting in his south-facing room, that is the room in which there has been a *sindh* (burglary), and was engaged in chewing *pan* (betel leaf), and was blowing into the fire-holder of his tobacco-pipe. When, on arrival, I accosted him, he asked me to sit down in his room. I went there and sat down, and, calling his servant, Pandu Uriya, asked him about the time when Hari Pan (who had given evidence against us in a case in the Criminal Court) attended the office of Apcar and Co., where he is employed, and where Pandu Uriya also acts as sirdar. The object of asking this question was to show that Hari Pan had given false evidence in Court, and to cause the production of the attendance register. This led me to come, and after conversation about ten minutes, I went away home by myself. Jadu Nath Chatterjee did not go with me, nor did any one else. I do not know when, where, and what for the said Jadu Nath Chatterjee went out; nor do I know why he did not return home. Besides the interview I had in his own house, I never saw him. Jadu Nath Chatterjee was on our behalf looking after the criminal case which was then pending against us, that is, against me and Nibaran Chandra Chakravarti. I was on very friendly terms with him. Jadu Nath Chatterjee had dealings regarding the pledge of silver and gold ornaments with me and several persons of the village. When on the 29th of August I came to the house of Jadu Nath Chatterjee, I conversed only on the subject of the witness as aforesaid, and went away. Besides that, I had no conversation whatever regarding any ornaments, nor was the matter alluded to. In consequence of the said criminal case, and the ill-feeling existing for various causes between myself and many people of the village, Sri Mati Debi, wife of the aforesaid Jadu Nath Chatterjee, is, at the instigation of those people, falsely accusing me. I knew nothing about the occurrence of the theft on the night of the occurrence in that house. On the morning after the occurrence, at about 7 A.M., Pandu Uriya, the servant of the said Jadu Nath, called me from my house. On arrival I saw present, in the house of Jadu Nath Chatterjee, many people of the village, among whom were Dharma Das Bhattacharjee, Benimadhab Chatterjee, and Mahadeb Mukerjee. I saw a *sindh* or hole and bricks lying loose below the southern window of the south-facing bedroom of Jadu Nath

Chatterjee. I heard that thieves had taken away gold and silver articles. I sat there for a while, and after sending Pandu Uriya and the village Chaukidar, Uday Sirdar, with a report to the Police Station, I and Nibaran Chakravarti Panchayet, and many other persons who were there, went away as each person chose. I have not been able to ascertain any clue regarding the person who is the author of this occurrence.

I sent Kedar Chatterjee to call Bindu Dasi, grandmother of Gentu. He brought her to me first. This was on the 8th September.

Cross-examined by MR. GHOSE:—I have been Sub-Inspector at Domjore for two years. I wrote Pandu's statement at the Thana when he made it. I read it to him, and he said it was correct. I sent a copy of the first information with that report of the Panchayet, *Exhibit* 4, to the Magistrate before I left the Thana to inquire. From that day to this, I have not seen the Panchayet's report, *Exhibit* 4.

I came to Bakshara with Pandu in the same *gazi* (carriage). We arrived there at 4 or 4.30 P.M. I found at Jadu Chatterjee's house Beni Doctor, Mahendra Katuria, Kebal Ram Mookerjee, and many others. Sham Pal was also there. Mati's statement was recorded after candle-light, at about 7 P.M. Beni Doctor, Mahendra Katuria, Kebal Ram Mookerjee, Prasanna Chatterjee, about five or seven men were present when I recorded her statement in Jadu Chatterjee's *baitak-khana*. I read it over to her and she heard it, and she said it was correct. The men were present on the mat for some time. They may have been listening or talking at the time, I do not remember. It is false that I took her away apart and read the statement over to her in a low tone.

Before I wrote her statement nobody said anything

about Sham Pal having taken Jadu Chatterjee away about a *tabij*, nor pointed out Sham Pal as having done so. I correctly recorded what Srimati has said. I saw Kebal Ram on Thursday and Friday. Up to the time he was examined, Kebal Ram never said that he had seen Jadu Chatterjee go with a parcel. Mati Debi and the others never said, so long as I was there, that her niece was in the house with her that Wednesday night. It is not true that I sent for any such niece or any girl of five years old and questioned her. I never heard any story that the *baitakkhana* of Jadu Chatterjee's house had been under repairs. I slept from the first in Jadu Chatterjee's *baitakkhana;* so did all the police-officers. I saw no scaffolding inside or outside the house.

The list was made out about midnight after Mati Debi had been examined. Mahendra Katuria gave the value of the stolen goods amounting to Rs. 1,201. I did not inquire whether the *khata* (account-book) was in Jadu Nath Chatterjee's handwriting or not.

I searched Sham Pal's house all round and found nothing suspicious. I searched his tank, by Chaukidars in the water, with *latties* (long bamboo poles). I had thirty or forty of them, and villagers making up in all fifty or sixty searchers. Mahendra Katuria, Beni Doctor, Nafar, Mahendra Chakravarti, witnesses, were present when I searched Sham Pal's house. We searched places on Saturday and Sunday.

The Inspector Chiranjib joined me in the inquiry on 2nd September, Sunday, at 11 A.M.

On 3rd September I was with the Inspector at Jadu Chatterjee's *baitakkhana*, examining witnesses. Pandu and Srimati were all along present there. I first heard of the discovery of the body from Jadu Chatterjee's

wife. She said of its whereabouts from two women. I asked Pandu if he had seen the women. He told me and the Inspector that he had not seen them. It was then 4 P.M. I searched for the women immediately, but could get no clue.

The description of the place, and the grave in which the body was, tallied with what we found exactly. On that day neither I nor the Inspector could find out who the women were and where they lived. It is not true that Pandu told me that night that the name of one of the women was Lakhi.

Mahendra Katuria, Kali Pada Pal and Bhutu Ghosh were the persons whom I first saw with others at the place where the body was found, crying out: "We have found it." *The body was covered with only about two inches of earth.* The body had been put in the drain and covered over so that it looked like a Mohamedan's grave. About 100 or 150 of the villagers assembled, on the discovery of the body.

The Inspector and the Sub-Inspector warned Pandu and the mother of Mati that it would be very bad for them if they did not find out the women, who they said had given the information. It was at 11 A.M. the next day that Pandu said the woman's name was Lakhi.

I was present when the boxes were found in Sham Pal's tank. Sham Pal was then in custody. It was on the 8th September.

The day after the body was sent to the dead-house we heard that no opinion as to the cause of death could be formed on account of decomposition.

Under order of the Inspector, Gaur Hari was brought, when he made the first statement to us. He said that

he never played with Gentu within twenty or twenty-five days, or heard any *hû hû* sound.

I examined Bhuti Bewa. Two of the statements of Mahendra Patra, pp. 69 and 72 Police Papers, bear the signature of Prabodh Chandra Ghosal, Sub-Inspector. I did not examine Mahendra Patra.

I made an inquiry to ascertain whether accused's son (Hira Lal) had fired a gun. He said that he had fired off the gun to frighten the people from bringing anything and hiding it in their land. In my presence, and in Inspector Samuells' presence, he said that he would shoot anybody who brought anything there. Shots were heard even after the discovery of the body.

Re-examined:—Hira Lal told me that his father had told him to fire. It is not recorded in my diary that Pandu said to me that he did not see the women, and did not know them; nor is my threat to the women written in it. I smelt no smell before I came to the place where the body was. I was on the top of the ditch when I saw the body.

Further Cross-examined:—Lakhi, Gaur, Bindu and Nritya were examined by me, and their statements were correctly recorded. Lakhi said that her son went to the house with her.

The statements are put in by the defence (*Exhibits* 6, 7, 8 and 9).[1]

I made a list of the stolen property after I went to the house. Mahendra Katuria read out the things from the *khata* which Mati Debi gave him. This is the list I prepared. I did not see the *khata*. This is a copy of the list and bears my signature. (Put in, *Exhibit* 5.)

[1] These statements will be found at the end of each witness's deposition.—See *ante*.

EXHIBIT 5.

List of Articles stolen on the 29th of August last from the house of the Proprietor, Jadu Nath Chatterjee, of village Bakshara, Police Station, Domjore, dated 30th August 1894.

List of Articles.	Approximate weight.	Approximate value.
1. Four pieces of gold bangles (two shark-headed and two tiger-headed), pledged by Mahendra Nath Ghosh, of Bakshara	10 bharis (One bhari is the weight of a rupee) ...	Rs. 160 0 0
2. Five pieces of bracelet, diamond-cut, pledged by the said Mahendra Nath Ghosh	10 bharis ...	„ 160 0 0
3. Two diamond-cut silver anklets, "mals," pledged by the said Mahendra Ghosh	35 „ ...	„ 26 0 0
4. Two curve silver diamond-cut anklets, pledged by the said Mahendra Ghosh	8 „ ...	„ 6 0 0
5. Ditto ditto, pledged by the said Mahendra Ghosh, four smaller pieces ...	6 „ ...	„ 4 0 0
6. One silver frog pattern "ghughur," one piece, pledged by the said Mahendra Ghosh	4 „ ...	„ 2 0 0
7. One tiger-headed gold bangle, pledged by Ram Lal Roy, of Bakshara ...	2 „ ...	„ 32 0 0
8. One small gold bangle, thread pattern, pledged by the said Ram Lal Roy ...	1½ „ ...	„ 24 0 0
9. One piece of silver, pledged by the said Ram Lal Roy	6⅜ „ ...	„ 4 0 0
10. Two gold ear-rings, diamond-cut, pledged by Jagabandhu Ghosh, of Bakshara	15½ annas ...	„ 15 0 0
11. Two gold armlets (anant), pledged by Jagabandhu Ghosh aforesaid ...	3 bharis ...	„ 48 0 0
12. Two gold ear-rings (one broken and one good), pledged by the said Jagabandhu Ghosh	15 annas ...	„ 15 0 0
13. One small piece of gold of Jagabandhu Ghosh	8 „ ...	„ 6 0 0
14. Four silver ankle-rings, thread pattern, pledged by Fakir Chand Ghosh, of Bakshara	30 bharis ...	„ 23 0 0
15. One pair of gold tabij or armlet, pledged by Gopal Chandra Ghosh, of Bakshara, with shellac inside ...	1¼ „ ...	„ 20 0 0
16. Two gold bangles, thread pattern (one broken), pledged by Bidhu Badan Pal, of Bakshara	3 „ ...	„ 48 0 0
17. One gold chain, pledged by Bipradas Mukerji of Satghara	1½ „ ...	„ 18 0 0

List of Articles.	Approximate weight.	Approximate value.
18. Two small gold armlets (anant), pledged by Prasanna Kumar Guchait, of Bakshara	3 bharis ...	Rs. 48 0 0
19. One silver *Rate*, pledged by Shama Charan Pal, of Bakshara	16 ,, ...	,, 12 0 0
20. One silver waist chain, pledged by the said Shama Charan Pal	16 ,, ...	,, 12 0 0
21. Twenty pieces of silver ghughur, frog pattern, pledged by the said Shama Charan Pal	6 ,, ...	,, 4 0 0
22. Two gold ear-rings pledged by the said Shama Charan Pal	1½ ,, ...	,, 24 0 0
23. Two gold tabij (armlet) pledged by the said Shama Charan Pal	5½ ,, ...	,, 100 0 0
24. Four silver ankle-rings, thread pattern, pledged by Bhola Nath Mukerji, of Bakshara	32 ,, ...	,, 24 0 0
25. One gold chik or necklace, diamond-cut, belonging to Sree Mati Debi, wife of the house-owner	5½ ,, ...	,, 100 0 0
26. Two gold tabij or armlets	8 ,, ...	,, 150 0 0
27. Two gold flower pendants	3 ,, ...	,, 48 0 0
28. Two gold ear-rings (kanbal) ...	1½ ,, ...	,, 24 0 0
29. Two gold large-sized ear-rings ...	2¾ ,, ...	,, 44 0 0
		Total Rs. 1,201 0 0

(Twelve hundred and one rupees only.)

Mark of Sri Mati Debi

Rasik Lal Bose,
Sub-Inspector.

C. M. W. Brett,
Additional Sessions Judge.

28*th November* 1894.

Witness No. 24.

Kali Krishna Sen Gupta, 2nd Clerk to the Chemical Examiner to the Government of Bengal.

I received a glass bottle sealed, addressed to the Chemical Examiner by the Civil Surgeon of Howrah with a label attached, showing it to be from Howrah, and its contents the viscera of Jadu Nath Chatterjee, and bearing the seal of the Civil Surgeon of Howrah

as appearing in the report (*Exhibit Q*1). The bottle was properly sealed. I gave it over with this report to the Chemical Examiner and to one of the Examiners. I gave this receipt for the bottle (*Exhibit Q*2).

The bottle and its contents were destroyed after the Chemical Examiner had made his analysis.

No Cross-examination. C. M. W. BRETT,
28*th November* 1894. *Additional Sessions Judge.*

Witness No. 25.

JOGENDRA NATH MUKERJEE, Clerk to the Civil Surgeon, Howrah.

I remember sending off the viscera of Jadu Nath Chatterjee to the Chemical Examiner to Government, on the 10th September last, by Bhagawan Dome. Bhagawan Dome brought them to me in a bottle from Raj Kumar Das, Civil Hospital Assistant. I packed the bottle and sent it with this (*Exhibit Q*1), forwarding letter to the Chemical Examiner. The bottle was sealed with the seal, copy of which is attached to the report, and labelled with a label of which the abstract is given ; the report (*Exhibit Q*2) is the receipt received from the Chemical Examiner.

This *Exhibit M* is the report received from the Chemical Examiner.

No Cross-examination. C. M. W. BRETT,
28*th November* 1894. *Additional Sessions Judge.*

Witness No. 26.

RAJ KUMAR DAS, Civil Hospital Assistant.

The stomach of one Jadu Nath Chatterjee, kept in a bottle sealed and labelled, was made over to me by Bhagawan Dome, and I kept it locked up in a chest. I think on the 4th September last. About four or five days afterwards I made it over to Bhagawan Dome to take to the Civil Surgeon's Head Clerk, to send to the Chemical Examiner. Bhagawan Dome brought the bottle to me from the *post-mortem* room from the Assistant-Surgeon.

No Cross-examination. C. M. W. BRETT,
28*th November* 1894. *Additional Sessions Judge.*

Witness No. 27.

BHAGAWAN DOME.

I was present, and saw the *post-mortem* examination of Jadu Nath Chatterjee. I cut up the body in presence of the Assistant-Surgon. The Civil Surgeon also was present. The stomach was removed and put into a bottle with some of the liver and kidney. Spirits were added and the bottle was sealed up by the Assistant-Surgeon, and he also attached a label to the bottle. I afterwards took the bottle so sealed and labelled to Raj Kumar Das, last witness, and locked it up in his chest in his presence.

On the 10th September Raj Kumar Das took the bottle out of the box and sent me with it to Jogen Babu, Head Clerk (Witness No. 25), who sent it with

me to the witness Kali Krishna Sen Gupta at the Chemical Examiner's office, to whom I gave the bottle, and from whom I received a receipt which I gave to the Head Clerk.

No Cross-examination. C. M. W. BRETT,
28*th November* 1894. *Additional Sessions Judge.*

Witness No. 28.

DR. AMRITA LAL DEB, Assistant-Surgeon, Howrah.

I was present and held the *post-mortem* examination on the dead body of Jadu Nath Chatterjee, of Bakshara. Dr. Purves, Civil Surgeon, was also present. I remember the stomach, its contents, part of the liver and kidney, were removed from the body by Bhagawan Dome, and the bottle was afterwards corked up, and I sealed it and wrote a label for it. I then told Bhagawan Dome to take it to Raj Kumar Das, and I saw him take it.

Cross-examined by MR. GHOSE:—Morphia can be had in powder as well as in solution in the bazar. The throat was very carefully examined, but no external or internal marks were found. In strangling cases such marks are usually found.

A meal would be more than half digested if a man took his meal at 1 o'clock and died at 4 o'clock. The meal in the stomach was entirely undigested. It could not have been taken more than half-an-hour to one and a half hours before death.

Re-examined:—The body was much decomposed, but not so much decomposed that I could not have seen such marks. The body appeared to have been kept underground.

The morphia would have taken longer to act if taken by a man after a meal had been eaten than if taken with the meal itself.

C. M. W. BRETT,
Additional Sessions Judge.

28*th November* 1894.

EXAMINATION OF THE ACCUSED.

Taken before me, E. W. Collin, Esq., District Magistrate of Howrah, on the 14th of September 1894.

My name is Shama Charan Pal, aged 49 years. My father's name is Thakur Das Pal. My caste is Satgope, profession compositor, my home is at Mouzah Bakshara, Thana Domjore, Zillah Howrah, where I at present live.

Q.—What do you wish to say?

A.—I have not done this act. The zemindar of the village, Mahendra Ghosh, and many people on his side having combined, have been trying from before to punish me. Now they have thrown upon me this murder case. The people of the village stopped the *hooka* of Jadu Chatterjee (that is to say, forbad others from associating and smoking with Jadu Chatterjee), alleging that Jadu Chatterjee's wife had gone bad with Pandu Uriya. I requested Jadu's wife to turn out Pandu from the house. Owing to that Jadu's wife is very angry with me.

Q.—On what terms were you with Jadu Chatterjee?

A.—I was an intimate friend of Jadu Chatterjee.

Q.—On what date did you last go to Jadu's house?

A.—On the day from which Jadu has been missing, I went to his house at 2.30 P.M. and inquired if Pandu

was at home. Thereupon Pandu came. I inquired of Pandu: "Can you tell when Hari Pan, who works in the factory of Apcar and Co., comes to and goes from the factory?" Pandu went away after saying he could give me this information. Afterwards I smoked tobacco for a short while and immediately came away. From that time up to to-day, I have not seen him.

Q.—Do you know Manmatha Ghosh (Gentu)?

A.—Manmatha Ghosh is my grandson. I know him. He had not been to my house for five or six months. I have had a quarrel with his father regarding the pledging of an armlet (anant), and my son has had a quarrel with Manmatha's father regarding a coat.

Q.—Did Manmatha come to your house on the day from which Jadu is missing?

A.—Manmatha did not come to my house on the day from which Jadu is missing.

Q.—Have you any quarrel with Kebal Ram Mookerjee?

A.—I have no quarrel with Kebal Ram Mookerjee.

Q.—Any quarrel with Khadan?

A.—I have had a quarrel with Khadan for ten years regarding land.

Q.—Why are you named?

A.—I cannot tell lies and flatter, hence the whole village are against me.

Q.—Do you know Nritya Bewa and Bhuti Dasi?

A.—I have no quarrel with Nritya Bewa. I know Bhuti Dasi. I increased the amount of her Chaukidari tax and sent her cattle to the pound. She was fined. Hence there is ill-feeling between her and me.

Q.—What are you doing now?

A.—I have not been in service during six months.

Q.—Was there any case previously against you?

A.—I have come to Court in connection with numerous civil cases, but only once in connection with a criminal case.

(Afterwards stated):—

I asked Pandu how early has Hari Pan to attend the factory to enable him to get his attendance noted in the Register? Pandu said attendance is noted up to 8.15.

SRI SHAMA CHARAN PAL.

The above statement was made in my presence and within my hearing, and is a full and accurate statement of what the accused person has said.

E. W. COLLIN,

14*th September* 1894. *District Magistrate.*

Examination of the ACCUSED UNDER SECTION 364 OF THE CRIMINAL PROCEDURE CODE.

The following statement is recorded before me, E. W. Collin, Esq., Magistrate of Howrah, this 28th day of September 1894:—

My name is Shama Charan Pal. My father's name is Thakur Das Pal. By caste Satgope. By profession.—At present doing nothing. My home is at Mouzah Bakshara, Thana Domjore, Zillah Howrah. I am at present residing in prison.

Q.—Did you engage any pleader on the first day that you were sent up by the police?

A.—On the first day I was in prison. I do not know whether my son engaged any pleader on my behalf.

Q.—Had you any money at home?

A.—There were five, seven, or ten rupees in my house.

Q.—How do you earn your living?

A.—For five or six months prior to this occurrence, I was ill and unable to do any work. Formerly I did business. I had rice and dhan business.

Q.—Do you owe money to any one, and did you lend money to any one?

A.—Yes. Two years ago I borrowed Rs. 600 on the mortgage of my house. Three years before I had money-lending business, but not within three years.

Q.—Have you any means of living, and have you any landed property?

A.—I have no landed property. I have a garden of four bighas. It is only a year since I obtained a decree after a suit in the Civil Court. I have realized the money.

Q.—What does your son do?

A.—My son is employed in the Iron Foundry of John King and Co.

Q.—Were any jewellery belonging to you pledged with Jadu Chatterjee?

A.—I have pledged some of my ornaments with Jadu Chatterjee.

SRI SHAMA CHARAN PAL.

The above statement was taken down in my presence and within my hearing, and contains accurately and fully what the accused person has said.

E. W. COLLIN,

28*th September* 1894. *Magistrate.*

Examination of the ACCUSED UNDER SECTION 364 OF THE CRIMINAL PROCEDURE CODE.

Taken before me, E. W. Collin, Esq., Magistrate of Howrah, on the 28th of September 1894:—

Q.—You are charged under Section 302 of the Indian Penal Code with having murdered Jadu Chatterjee (charge read). Are you guilty?

A.—I am innocent. I know nothing.

Q.—Will you cross-examine the witnesses on behalf of the prosecution?

A.—My pleader says he will not cross-examine the witnesses for the prosecutrix in this Court, but will cross-examine them in the Court of Sessions.

Q.—Do you wish to examine any witnesses in the Sessions Court?

A.—I will produce witnesses in the Sessions Court.

Q.—What are the names of the witnesses for your defence?

A.—Their names are:—

1. Shashi Bhushan Mukerjee.
2. Dharma Das Bhattacharjya.
3. Srinath Mukerjee.
4. Ram Lal Roy.
5. Jadab Patra.
6. Braja Nath Mukerjee.
7. Beni Madhab Chakravarti, Doctor.
8 Priya Nath Mukerjee.
9. Behari Lall Das of Bakshara.

Thana Domjore.

SRI SHAMA CHARAN PAL.

The above statement was taken in my presence and within my hearing, and contains accurately and fully what was said by the accused person.

E. W. COLLIN,

28th September 1894. *District Magistrate.*

Examination of the ACCUSED IN THE SESSIONS COURT.

Q.—Your statements dated the 14th and 28th September have been read out to you. Did you make those statements?

A.—Yes.

Q.—Do you wish to say anything more here?

A.—I wish in addition to file this letter (*Exhibit* 3) which I received from Jadu Nath Chatterjee, and which was found by my counsel among my papers. I pray that it may be accepted and read as part of this my statement:—

TRANSLATION OF BENGALI LETTER, EXHIBIT 3.

To

Babu Shama Charan Pal of Bakshara.

Accept my blessings. I am again laid up with fever. Now I am somewhat better. If I were well I should have come personally to you, but what can I do? I am very weak. Before I could recover I have been again laid up. You respect me as a Brahmin, therefore by this letter I tell you that I shall be very pleased, if immediately on receipt of letter, you come and see me without delay. If I am pleased it will be good for your household. It is wrong of me to send for you, but what can I do? I want you very urgently.

Dated 18th of Baisakh 1299, corresponding to the 29th of April 1892.

The blessings of

JADU NATH CHATTERJEE.

I also beg to file this copy of a complaint which I brought against Lakhi Narayan Ghosh, and seven others of the village in 1885. (The original petition having been called for and reported to be burnt.) This I pray may be accepted and read as part of this my statement:—

Complaint of Shama Charan Pal, dated the 18th May 1885.

To

The Magistrate of Zillah,
Howrah.

Case under Section 107 of the Criminal Procedure Code and 504 of the Penal Code.

Complainant.	Defendants.	Witnesses.
Shama Charan Pal of Bakshara, Thana Domjore.	1. Lakhinarayan Ghosh. 2. Priya Nath Ghosh. 3. Rakhal Chandra Ghosh. 4. Manik Chandra Ghosh. 5. Hatu Ram Ghosh. 6. Santi Ram Ghosh. 7. Khetra Mohan Ghosh. 8. Ram Lal Mukerji.	1. Nibaran Chandra Ghosh. 2. Rasik Chandra Ghosh. 3. Harish Chandra Ghosh.

The case is that owing to ill-feeling regarding a fence, the defendants, at about 9 P.M. of the 13th of May last, came to my house in a drunken state and began abusing me in obscene language. At this time I remonstrated against the abusive language of the defendants from the house of witness No. 1, whereupon under orders from the accused Nos. 1 and 2, the remaining defendants began abusing me in bad language, and were about to beat me when through fear of life I fled into my house and saved my life. On the appearance of the witnesses the defendants went away. They have given out that in the event of their finding me alone in the streets they would kill me, and they have threatened: "We will set fire to the house of the *sala*, and kill him." Therefore be pleased to summon the accused under the aforesaid sections, and take recognizances from them. The rest of the facts I will state in my deposition.

Dated 18th of May 1885.

Order on the petition:

"Let notices be served on the accused."

Q.—Have you any witness?

A.—No.

Sri Shama Charan Pal.

Record of the criminal case against the accused tried by the Deputy Magistrate of Howrah in August and September 1894.[1]

PETITION OF COMPLAINT.

COMPLAINANT.	ACCUSED.	WITNESSES.	SECTIONS.
Bhuban Ghosh of Bakshara.	1. Sham Pal. 2. Ram Lal Roy. 3. Nibaran Chandra Chakravarti. 4. Nibaran Ghosh. 5. Uday Sirdar, and 6. One Chaukidar name unknown, of Bakshara.	1. Panti Ghosh. 2. Ram Chandra Ghosh. 3. Harish Chundra Pal. 4. Akhoy Metu. 5. Mahendra Chakravarti. 6. Beni Chatterjee. 7. Mahendra Ghosh. 8. Mahadeb Mukerjee. 9. Annant Ram Paul. 10. Kushvi Bag. 11. Durga Das Sirdar, of Bakshara.	204 504 323 448 and 147, Penal Code.

The representation is—

Accused Nos. 1, 2, and 3 are Panchayets of the village, and Nos. 5 and 6 are Chaukidars. The said Panchayets by committing oppression on many persons of the village, and creating a row, extort fines, and also realize taxes twice over. With the first four accused persons I have been on bad terms owing to various causes. Owing to those causes, day before yesterday at 8 A.M., the said defendants combined together, and by improperly forming an unlawful assembly, forcibly entered my house and alleged that unless the tax be not paid, they would take away my movables. On their demanding this tax, I said: "I paid the tax yesterday, and obtained a receipt from accused No. 3." On their demanding to see the receipt, I showed it, whereupon accused No. 1 snatched it from my hand, tore it, saying: "This will not do, pay the tax." In consequence of my not having paid, accused Nos. 1 and 2 forcibly took from my house a *garu* (brass vessel for carrying water) and a *ghati* (brass jug) and made over to accused Nos. 5 and 6. On my interfering, accused No. 3 gave me a slap and a push, and the accused used bad language and went away. I therefore pray that the accused and the witnesses be summoned and justice be done. *Finis.* *2nd August* 1894.

1. BHUBAN CHANDRA GHOSH, on solemn affirmation, states:—

On the 15th or 16th Sraban, at about 8 A.M., Sham Pal took away a *garu*, and Ram Lal a *ghati*, from my verandah, and Nibaran assaulted me with a slap at my courtyard. These three, Nibaran and some Chaukidars, went to my house. Shama Charan and

[1] Referred to in the cross-examination of Witness No. 8, pp. 52, 53, and tendered by the defence.

Nibaran are in the dock. They are Panchayets of Bakshara. They went and called my elder brother, and I came out. They demanded Chaukidari tax, but I said I had already paid it and got receipt. They wanted three pice more, and if I don't pay they said they would take from me nine annas, nine pies. I refused to pay the excess three pice. They wanted to see the bill, which I produced and showed, and Nibaran snatched it away, and Sham Pal having taken it tore it to pieces. This is the torn bill for annas nine, which I had paid Sham Pal. Nibaran gave order to Chaukidars to proceed legally by seizing doors, &c. The Chaukidars refused, and then all proceeded inside and took away the *garu* and *ghati*. I having resisted, was assaulted. Females lived in the house. The torn bill I picked up and have filed, pasting it on a piece of paper. The *ghati* and *garu* have not been returned to me. I used to pay annas eight, pie three, which being enhanced I paid annas nine. They wanted three pice more.

Cross-examined:—I produce three bills for three-quarters of 1300 B. S. The other one is missing. The torn one is not for 1300 B. S. but for 1301 B. S. The torn one marked by Court as *Exhibit* 1, and this one from Baisak to Asarh marked as *Exhibit* 2, and also Nos. 3 and 4 are all in the handwriting of Nibaran. A sister of mine, aged fifteen or sixteen years, left my house and lived in the house of Sham Pal, and since then I have got no news about her. That was about one and a half years ago. She was a widow. This was the reason why bad feeling exists between me and Sham. I was not on bad terms with any other Panchayet. Our Zemindar, Mahendra, has come to Court to-day. His cousin, Priya Nath, has also come here. I can't say why they and others have come. I don't remember if any petition has been submitted against the enhancement of tax, or for the removal of the present Panchayet. My signature was obtained on a piece of paper, representing that a prayer is to be made for the reduction of a Chaukidar. I don't know if inquiry was made by police. I don't know why they wanted three pice more. For the said excess, the *garu* and *ghati* were taken away. Beni Doctor is a *bhadralok* of the village. I went to him after the occurrence. I did not say to him that I am quite willing to pay the tax due. I only said that in future I shall pay my tax to him. I told him about the taking away of the *ghati* and *garu*. The police examined Beni Baboo in the case instituted by defendant. About Rs. 16 or 17 I have spent in this case. The sum has not been contributed by Mahendra and others. There were present Ram Ghosh and Pantu Ram when the *ghati* and *garu* were taken away. Ram is my brother. Pantu Ram is a distant relative of mine. Hari Pan saw while they were being taken away. His house is about two bighas off from my house. My other neighbours did

not come. They are not many. I can't say what were the defendants doing when Pantu Ram came. The Panchayets did not sit in front of my house with my *ghati* and *garu*. Those three witnesses were present when the *ghati* and *garu* were taken away. Uday Chaukidar, and I think Ram Chaukidar, carried away the *ghati* and *garu*. I attempted to resist them in removing the *ghati* and *garu* when I was pushed aside by Nibaran, which was observed only by Ram and Pantu Ram. The value of the *garu* and *ghati* is about Rs. 2-8.

2. Pantu Ram Ghosh, on solemn affirmation, states :—

Complainant Bhuban is my nephew by distant connection. He is my neighbour. About twenty-six or twenty-seven days ago in the morning on my way to a shop I saw Bhuban handing over a bill to Nabaran from home. Sham took and tore it to pieces. Bhuban was then asked to pay annas nine, pies nine, which he refused. They then ordered Chaukidars to proceed lawfully, that is, to attach door, planks, &c., but they refused. Then Shama Charan, Nibaran, Ram Lal, Nibaran Ghosh, and Chaukidars went inside the courtyard, and taking a *garu* and *ghati* from the *rack*, left the place. Sham Pal took the *garu* and Ram Lal the *ghati*. Bhuban objected and was assaulted by Nibaran. I then left the place. Shama Charan and Nibaran are in dock.

Cross-examined :—My father and complainant's grandfather were brothers. I am not on bad terms with Sham Pal. I told the accused why were they taking away the *ghati* and *garu*, and they said : "You need not interfere." When I left, I saw Bhuban, the accused, and Ram. Long ago I paid my tax. My door planks were not attached. I don't remember if I had signed the petition against the Panchayet. I worked together now and then with Abhoy ; since the last two months for a day or two only. I worked with him at Matiaburj. I did not subsequently inquire of Bhuban what steps he had taken for the wrong done to him. I did not see Hari Pan there when I left the place.

3. Ram Chandra Ghosh, on solemn affirmation, states :—

I am younger brother of complainant Bhuban. I know the two accused in dock, Shama Charan and Nibaran. About a month ago, at 7 or 8 A.M., Sham Pal, Nibaran, Uday Ram, Nibaran Ghosh, and Ram Lal Roy went to our house, being called. My brother and I came out. They wanted three pice from my brother, who said, he has day before yesterday paid the tax, and why should he pay again. They pressed for the payment, and wanted to see the bill, which my brother brought and showed to Nibaran Chakravarti, from whom Sham took and tore it to pieces. My brother refused to pay anything more, then the

Panchayets directed Chaukidars to do their duty, which they refused; and then all entered inside and *ghati* and *garu* were taken away. My brother resisted, but was thrown down by Nibaran. The utensils were taken out by Sham and Ram who handed them over to Chaukidars.

Cross-examined:—My brother seized hold of the *ghati*, and so he was shoved down by Nibaran to prevent him from snatching away the *ghati*. Those two were the only utensils at the *rack*. There are some things at the *sadar ghar*. Hari Pan arrived there when the defendants were taking away the things. Nibaran is the collecting member. I did not inform the police about the occurrence. I can't say if my brother did.

4. Hari Pan, on solemn affirmation, states :—

I know the two accused, Sham Pal and Nibaran Chakravarti. On the 15th and 16th Sraban last, in the morning, hearing the *golmal* (row) I went to the place, and saw Sham Pal, Nibaran, Ram Lal Ray, Nibaran Ghosh, Uday Chaukidar, and another Chaukidar going out of Bhuban's house. I saw them in front of Bhuban's house. I saw *garu* and *ghati* with the Chaukidar.

Cross-examined:—Mine and Bhuban's cultivation are carried on with each other's help. I saw the accused three and four *haths* (cubits) inside of the complainant's *sadar* (front) door. I don't remember if I saw Pantu Ram. I work at Seebpore, and the rule is that we are to attend at 8 A.M., but I am allowed half-an-hour's grace. Seebpore is half-an-hour's journey from my house. I did not ask any of the defendants.

5. Ananta Patra, on solemn affirmation, states :—

I know the accused Nibaran and Sham. About nineteen or twenty days ago I was passing by the way and saw defendants going with a *garu* and a *ghati*. These were in the hands of two Chaukidars. I passed them.

Cross-examined:—I am a tenant of complainant. The Panchayets were telling that they must realize thrice the amount of the tax from the *ghati* and *garu*. Many people were passing by. I cannot say whose were *ghati* and *garu*.

6. Beni Madhab Chakravarti, on solemn affirmation, states :—

I know the parties of this case. About fifteen or sixteen days ago Bhuban went with me and told me by showing some torn pieces of a paper that Sham Pal and other Panchayets and Chaukidars had gone to his house, torn the bill, and taken away *ghati* and *garu*. The complainant's tax was previously eight annas and three pies quarterly.

Cross-examined:—I am also a Panchayet. That very evening

complainant again went to me and inquired if he was to pay the tax due to me. I refused, and advised him to go to the other Panchayets. The residents of the village prayed for the removal of the existing Panchayets, but they could not succeed.

28*th August* 1894.

3*rd September* 1894.

Prosecution closed here. Defence has no witness.

Judgment:—The complaint was that the two defendants in dock, Panchayets of the village Bakshara, forcibly entered into the complainant's courtyard and took away one *garu* and one *ghati*, valued about Rs. 2-8, and assaulted complainant while the latter resisted. The complainant said that the defendants, with other Panchayets and Chaukidars, went to his house and demanded three pice more as Chaukidari tax in addition to nine annas, he, complainant, had paid, and for which he had got a receipt, which, however, was torn into pieces by the Panchayets and produced by complainant. To support these serious charges four witnesses were examined who supported them. Defendants pleaded not guilty. They admitted having gone to the place, but stated they were not paid, and in attempting to attach, were obstructed and assaulted, and thus they had to return. They called and examined not a single witness. It was argued for them, firstly, that as pices were due from the complainant, they, in good faith, took away the *garu* and *ghati*, and thus they cannot be criminally prosecuted. Now, it has not been shown that the sum of three pice was due; even if it was due, it was not shown that any list of defaulters was made out under Section 26 of the Chaukidari Act, or the collecting member issued a writing in the prescribed form, authorizing the Chaukidar, or any other person, to pay by the distraint.

The provisions of the law were not in the least complied with. But such argument is of no avail, when the defendants denied the taking away of the *garu* and *ghati*. It was urged that the witnesses, being in hostile terms with defendants and friends to the complainant, can hardly be relied on. But I see no reason to disbelieve them when the circumstances of the case considered with that part of the statements of the accused that they did go to the place to attach, but returned, being driven away, appear to be probable. I cannot believe that the defendants, with a number of men, including Chaukidars, would come away as they allege. They were many in number, and also from their position influential, and thus must have taken away a *garu* and *ghati* as evidenced for the prosecution. Their very denial and the taking away of properties valued at Rs. 2-8 for an alleged arrear of

three pices only show their bad faith. They were undoubtedly actuated by malice, and bad feeling which at present exists between them and the complainant, and thus they abused their power.

Their conduct technically amounts to theft, for which I convict them. I acquit them of other charges.

N. N. PAL CHAUDHARI,
Deputy Magistrate.

3rd September 1894.

Guilty under Section 379, I. P. C.

The sentence or other final order.

Each sentenced to pay a fine of Rs. 25 ; in default, fifteen days' rigorous imprisonment. Complainant should get Rs. 10 as compensation.

N. N. CHAUDHARI.

3rd September 1894.

THE JUDGE having called upon the Government Pleader to sum up the case for the prosecution, the latter contended that the Counsel for the defence having put in documents in evidence, the Crown had a right of reply, and that he was, therefore, entitled to address the jury after Mr. Ghose's speech.

MR. GHOSE submitted that although there had been conflicting decisions on the point in the different High Courts of India, the Calcutta High Court had uniformly held, for many years, that whatever might be the English practice on the subject, under the Indian Criminal Procedure, the defence did not lose the last word in the case by putting in documents in the course of the cross-examination. That was the practice which prevailed in all Sessions Courts in Bengal, and it seemed to him, if he might venture to say so, more reasonable and just than the practice of the English Courts, according to which the defence could not put in even a previous deposition of a witness without giving the other side a

right of reply. So long as documents were tendered in the course of the cross-examination of the witnesses, the prosecutor, who had thus ample opportunity to re-examine upon the documents, could have no legitimate ground of complaint, because he was at liberty to comment upon that evidence in the course of his summing up. The case, however, would be different if evidence were tendered by the accused after the prosecution had summed up their case. Mr. Ghose failed to see, on principle, what difference it made whether evidence had been elicited orally in cross-examination, or had been tendered (suppose, in the shape of a letter written by the witness himself) in the course of the cross-examination. The English practice on the subject was, he ventured to say, extremely artificial, and with great deference he would submit that this Court was bound to follow the rule laid down by Mr. Justice Wilson, himself an eminent Judge, at one time a member of the English Bar, in the case of the Empress *v.* Solomon, I. L. R. 17, Cal. 930, where all the authorities were reviewed, and where that learned Judge, following earlier cases, laid down that, according to the Bengal practice, which must prevail in all Bengal Courts, the putting in of documents in cross-examination, on which the prosecutor can comment in his summing up, does not give him the right of reply. (S. 289 of the Criminal Procedure Code.)

THE JUDGE held that the rule laid down in Empress *v.* Solomon must be followed, and that the prosecution was not entitled to a reply.

SUMMARY OF THE ADDRESS OF THE GOVERNMENT PLEADER

GENTLEMEN OF THE JURY:—

Altogether I have examined twenty-seven witnesses in the course of this trial, the most important of whom are:—1, Mati Debi, the widow of the deceased; 2, her servant Pandu; and 3, the boy Gentu. The other evidence in the case goes to corroborate the widow and the boy, and also shows how the body of the deceased was discovered and the finding of articles belonging to the murdered man in the tank of the accused, and the result of the chemical analysis of the contents of the stomach of the deceased. I will discuss the evidence of Mati Debi first. She is thirty-five years old, and always lived with her husband. Only once she went to Puri without his permission. There is no evidence in the case that there was ever any friction between her and her husband. The servant Pandu was brought by her from Puri; but he has been living with them for nearly ten years, and the deceased, Jadu Chatterjee, was apparently very fond of him. He lived in the house under the orders of his master. If you look at the map, you will find that there were three rooms, side by side, in the house: the eastern room being used as a *baitakkhana*, or a general sitting-room. It is admitted by the accused that he went to Jadu Chatterjee's house at 2 or 2.30 P.M., on the 29th August, and that he made certain inquiries of the servant Pandu about Hari Pan. Both sides agree as to this incident, except that, while the accused says Jadu Chatterjee was then chewing betel-leaf, the prosecution do not admit this. We say that there was some conversation about

Evidence of Mati Debi.

the *tabij* on that day, and that Jadu Chatterjee brought it out; but the accused denies this. At that time Pandu was not present, and he therefore cannot corroborate the evidence of the widow on this point. The learned Counsel for the defence has, in the course of his cross-examination, insinuated that Pandu carried on an intrigue with Mati Debi; but he has not had the courage to put the question point-blank to either of those witnesses. This was scarcely the proper thing to do. [THE JUDGE:—I don't think you are right in saying that Mr. Ghose has insinuated anything of the kind. You will find, from the statement of the accused himself, that, even before the Magistrate, he himself referred to the rumour of the intrigue as one of the grounds of his defence. Mr. Ghose, therefore, suggested nothing of the sort on his own responsibility.] [MR. GHOSE:—I am obliged to your Honour. It would have been worse than useless for me to have formally put such an insulting question to the woman, and I am not sure that the jury would not have resented my doing so. The jury are competent to draw their own inferences.] All that I say is, that there was no direct question put, and that there is no evidence in support of this theory. If an intrigue had existed, and there was an attempt to manufacture a false case, Pandu could have been made to support Mati Debi in the matter of the *tabij*. She says her husband was in the habit of coming home late every night, and, naturally, she would dine early and retire, after putting out the lights. It would be pressed, why the outer door had been kept open. This was necessary when the husband constantly came home late. In the course of the cross-examination of the widow, an insinuation was made that she kept the door between

her bedroom and her husband's door closed, to prevent him from coming into her room at night; but she explained this clearly by saying that she only closed the door during her husband's absence from the house. All the doors except the outer door had been secured according to custom, and Pandu retired to sleep in the cow-shed on the night in question. Early in the morning, on hearing the cries of his mistress, he very naturally asked, "Which door shall I open?" Look at the conduct of the woman on discovering in the morning that her husband had not come home! She says—"My husband has not come home, Sham Pal has taken him away." All this was perfectly natural and consistent with our case. Information of the burglary was at once sent to the police that morning. At that time no one thought or suspected that Jadu Chatterjee was not living. The Police Sub-Inspector arrived in the village that evening and examined the widow at 7 P.M.

[Reads her statement, p. 21.]

This is a remarkable statement. Mati Debi repudiates a good deal of what it contains, and it bears internal evidence of the bias of the police-officer. The wife would never say to a stranger that her husband did not like her. The question is, whether you believe the lady's denial or the Sub-Inspector who wrote all this. It is highly improbable that she should have said, "I led a miserable life," or that "My husband never trusted me with money or ornaments." I ask you, as reasonable men, if this is likely. The record of her statement by the Sub-Inspector should therefore be received with caution, if not altogether discarded. She is made to say, "The character of Pandu is good." The words used were evidently intended to convey the idea that he was

honest, and not likely to commit any theft. Naturally that would be her statement. It is important to bear in mind that she mentioned in this her earliest statement the fact of the *tabij*, and her husband taking the *tabij*, and going out with Sham Pal. The police-officer calls this a part of the First Information, and if that is so, the grounds which led her to suspect Sham Pal are given in the First Information. The very fact that Sham Pal's house was searched early the next morning shows that he must have been accused by the wife the day before. It is suggestive that the Sub-Inspector failed to search the house that night. This also shows that he was, from the first, inclined to screen Sham Pal. The statement of Mati Debi, as recorded under Section 161 of the Criminal Procedure Code by the police, ought not to be taken as a fair and correct record of her narration. Much will be made of the evidence regarding the identification of the body; but it was clearly identified by the bent toes, and the general features satisfied everybody as to the identification. You will also note that the two tin boxes found by the divers in the tank of the accused were at once identified by Mati Debi as her husband's. Mr. Ghose will contend that this discovery is of little value. I admit that is so; but it is an important piece of evidence connecting Sham Pal with the burglary.

In cross-examination Mati Debi stated that her niece was with her on that night. Before the police she had stated that she and her servant Pandu were in the house. This is not a contradiction, because little children are often not counted as members of the household. There is no inconsistency in her saying afterwards that a girl of five years was with her that night. This question is

very immaterial in the case. Before the magistrate she stated that her niece was there. [MR. GHOSE:—Not in her first deposition recorded by Mr. Banerjee.] She stated it in her later deposition before Mr. Collin. She stated before the Police Sub-Inspector: "I remained alone as I have no children." This is a general statement of hers. She was cross-examined as to why she did not object to the omission of the niece in her statement before the police. She was then in a depressed state of mind, and she, perhaps, did not carefully listen to what was read over to her. After all, what is the suggestion regarding the introduction of this little girl into the story? Does the defence contend that if the girl stayed in the house, Mati Debi would have been prevented from having her own way at night? Why then needlessly invent a false incident of this sort? She was cross-examined as to her husband having refused to give her the necklace. In her examination before the Magistrate, which has been put in, you will find that she said that she was refused because the necklace had no ribbon. She would not have admitted this refusal at all if she had not been on good terms with her husband.

Position of Pandu.

As regards Pandu, the servant, it is true he remained in the house without any salary. He worked elsewhere as a mechanic. It was advantageous to him to get his food and clothing, and then to work in the factory. Pandu had no quarrel with the deceased, and it has not been proved that he ever had been sent away. It was attempted to be shown that Jadu Chatterjee had been outcasted by his neighbours. No one has supported this. Mahendra Patra says that Jadu had been allowed to smoke the *hooka* (pipe) in his shop, and Beni Doctor used to take rice in Jadu's

house. There is therefore no ground for saying that Jadu Chatterjee was not in society, and that he had been outcasted.

It is clear that the whole village are on the side of the widow. Would they have all supported her if she had been unchaste? All the respectable people of the village are on her side. The theory of unchastity is a myth, and has been set up to help Sham Pal. It is not a fact, nor is there any evidence to show, that Sham Pal had ever asked Mati Debi to send Pandu away. So far as she is concerned, she has given a perfectly true account of everything. An attempt has been made to create suspicion in your minds regarding her devotion to her husband, by eliciting from her that for some time after his death, she continued to dress as a married woman, and wore ornaments instead of putting on mourning. Now, it is necessary that ceremonies should be performed before changing the dress. Had she been an unchaste woman she could have easily changed her dress and simulated grief for her husband, by putting on a widow's dress as soon as the corpse was found. It was necessary for her to consult priests, and to ascertain what she ought to do. Why did she appear before you in a widow's dress? Was that to deceive you?

Discovery of the corpse.

I now come to deal with the information which led to the discovery of the corpse, and, no doubt, a great deal will be made by the defence of the evidence bearing on this point. Even if you reject all that evidence it is not material. You may discard it altogether, if you like. [THE JUDGE:—But you connect the accused with the dead body by means of this evidence.] Yes; the woman Lakhi says she overheard Sham Pal, and that is how she came to know

where the corpse was. Had Mati Debi herself known where the corpse was, she would not have ventured to give the information to the police; but I will deal with this matter later on. You will notice that Pandu has indirectly, but accidentally, corroborated Mati Debi on the point that Sham Pal and Jadu left the house together. Pandu said that after his conversation with Sham Pal, on the Wednesday afternoon, he went to the tank to fish, and on his return, a few minutes after, saw that neither his master nor Sham Pal was there. I now come to the First Information lodged by Pandu. Much stress will be laid upon the omission of all mention of the *tabij* and of Jadu Chatterjee's going out with Sham Pal on the Wednesday. That the accused came to the house on that day is admitted; he denies having gone out with the deceased. Had this been a false case, why could not Pandu have said all that in his Information? The omission, therefore, tends to show that Pandu only stated what he had himself seen. Pandu went to the Thana with a Panchayet's report, a document on which much reliance will be placed by Mr. Ghose, because it does not recite the fact that Jadu Chatterjee had left his house in company with the accused. Now, at that time the Panchayets did not think of the murder. They simply gave the information of the burglary in the village, as they were required by law to do. They were, therefore, not concerned with Jadu Chatterjee's movements, to which they attached no importance. The report of the Panchayet is therefore of no help to the defence. No one then thought that Jadu Chatterjee had been killed, and a report of the occurrence of a burglary would not

First Information by Pandu.

Panchayet's Report.

contain any precise information regarding the master of the house in which the burglary had been committed.

Movements of the deceased.

We have direct evidence to show where Jadu went after leaving his house: three witnesses have been examined to prove that the deceased went towards Sham Pal's house, and one to prove that he actually entered it. He was never seen to come out. There is no reason why you should disbelieve the woman, Khadan Bewa (No. 5), who lives opposite Sham Pal's house, and saw the deceased going into the house. By the evidence of these witnesses we are able to trace Jadu Chatterjee from his own house to that of the prisoner on the Wednesday afternoon. Then comes the evidence of the boy Gentu, the grandson of the prisoner himself, and this evidence must be carefully considered. This boy is a son of Sham Pal's daughter. That he came that morning to the house of Sham Pal is proved by the evidence of the woman Nritya Bewa. The prisoner himself stated before the Magistrate that there was no ill-feeling between this woman and himself. There is, therefore, no reason suggested why she should perjure herself to get an innocent neighbour convicted. Her evidence is strongly corroborated by that of Kali Pal (No. 12), who also saw the boy that morning. Further, the boy's own grandmother, Bindu Bewa (No. 11), swears that he went to Sham Pal's house. This is very strong corroboration of the fact that the boy came to the house on that day. Now, the question simply is, whether the boy, who was undoubtedly there, is telling the truth as to what he saw? He says his attention was first attracted by a peculiar sound, such as would probably be made by a man about to be

Evidence of Gentu.

strangled. He therefore jumped on a wall and saw what was going on. The boy gave his evidence in a straightforward way, without any prevarication. He did not conceal that his father had a quarrel with the prisoner's son. He frankly and openly admitted that the other boy, Gaur Hari, had contradicted himself before the police. There was no real contradiction in his evidence though he was severely cross-examined by one of the most skilful cross-examiners in this country. It is true that his deposition before the Magistrate does not show that he had said anything about the *Pancr Pik* (betel-leaf stains) of which he now speaks; but the Magistrate may have omitted to record all that the boy said. As for the grandmother Bindu's evidence, it is only natural that she should have, at first, tried to screen the accused, who was connected by marriage, but when oath was administered to her, she must have felt the sanctity of it, and told the truth in this Court. As for the evidence of the boy Gaur Hari, I must admit that it is very unsatisfactory. He seems to be a dull boy. He could not even answer all my questions; but that does not affect the veracity of the other boy, Gentu. You can safely convict the prisoner if you believe him.

Evidence of Gaur Hari.

I will now deal with the evidence of Shama Debi, the mother-in-law of Jadu Chatterjee, and the other witnesses, relating to the discovery of the corpse. Shama Debi says that two women came and told her where the corpse was to be found, and this she communicated to her daughter, who, in her turn, gave the information to the police. Those two women, Lakhi and Pocha, have been examined. The former overheard, on her way to Satghara,

Evidence as to the discovery of the corpse.

the conversation which she has repeated before you. You must remember that the two men whose conversation she overheard, were the prisoner and Nibaran Chakravarti, his friend, both joint Panchayets of the village. They were both convicted on the 3rd September in the same case, and it is natural that one would make the other his *confidant*. Either Lakhi got the information in the manner described by her, or in some other way which she has not chosen to tell us. The utmost that can be said is that we do not know how she came to know of the whereabouts of the corpse. It has not been shown in cross-examination that Lakhi has any connection with Bakshara. Then there is the evidence of the other woman, Pocha Bau; why should that be discarded? It appears from the police papers that Pandu was sent at 4 P.M., on the 3rd September, to Mahendra Patra to inquire about these two women. Mr. Ghose has pointed out that there are three different statements of Mahendra Patra recorded by the police; but they are not inconsistent, except about the hour when Pandu went to him to inquire. Mahendra Patra swears that Pandu came and asked him about the women. Considering the delay which has taken place, it is not unnatural that Mahendra Patra should have made some mistakes in his deposition. The prisoner's own case is that all the villagers are against him, and if Mati Debi wanted to make a false case against Sham Pal, the dead body could have been buried in the garden of the prisoner, which is a pretty large one.

Alleged conspiracy in the village.

The evidence of Beni Doctor tends to establish the commission of a burglary in the house of the deceased; but it will be said

that he joined in the applications against the prisoner to remove him from the office of a Panchayet. Applications against Panchayets are very common in this country, and this application is not sufficient to show that all the villagers conspired against the prisoner and tried to implicate him in a murder case. The case brought by Bhuban Ghosh against the prisoner, the record of which has been put in by the defence, shows that Sham Pal had abused his powers as a Panchayet. That record is not relevant for any other purpose.

Akhoy Kumar Banerjee and Basanta Kumar Mukerjee.

The evidence of Akhoy Kumar Banerjee is important. He identified the corpse, and was in the house the next morning. He was treated in the Court below as a formal witness, and therefore he did not say all that he has said here. The witness Basanta Kumar Mukerjee (No. 18) proves the discovery of the *namabali* (red cloth) which was found near where the body was, and two divers prove the discovery of the two tin boxes in the prisoner's tank.

Evidence of Rasik Lal Bose, Sub-Inspector of Police.

I now come to the evidence of the Sub-Inspector Rasik Lal Bose, which I must say is not favourable to the prosecution; but I was compelled to call him. He has evidently not been doing his duty, for which he has been suspended from office. His evidence, however, does not affect the case for the prosecution, as it cannot be relied on. He is contradicted by several witnesses. He did not search the prisoner's house when he first arrived, and showed a manifest bias in favour of the accused throughout. He had to be superseded by other police-officers. I must therefore ask you not to act upon the records he made of the statements of the witnesses whom he examined.

Medical Evidence.

I now come to the medical evidence. The Civil Surgeon has said that the body was so decomposed, that it was impossible for him to give any opinion as to the cause of death. He was present at the time of the *post-mortem* examination. [Reads the report of the Assistant-Surgeon, Amrita Lal Deb.] According to this report there were no marks on the neck. In this Court the Assistant-Surgeon says, that in his opinion marks would have been visible if the deceased had been throttled. This opinion of his is quite inconsistent with what he himself had written in his report at the time.

Report of the Chemical Examiner.

I now come to the report of the Chemical Examiner, according to which, morphia must have been administered to the deceased. It should be borne in mind that morphia had not been detected during the *post-mortem* examination. The police, therefore, during their investigation of the case, had no idea as to the cause of death—whether it was strangulation or anything else. Had the police been informed previously, that death was due to strangulation, they might have concocted the present case, and tutored the boy Gentu to tell the present story. The boy was providentially discovered, and by accident. He gave the clue, and the police worked up to it. Our case is that the accused must have first administered morphia to the deceased, when he went to the house, and then strangled him. If a man wishes to throttle another, he will probably drug him first, in order to incapacitate him from resisting. It was to weaken the power of resistance that, I say, morphia was given in some shape, probably inside a betel-leaf which was given him to chew, and when the deceased was getting

powerless from the effect of the morphia, the prisoner strangled him. The deceased must have spat out the betel-leaf, and this explains the stains noticed by the boy Gentu on the floor. [THE JUDGE:—There is no evidence that the accused ever possessed a grain of morphia; and there never has been any suggestion of that sort.] But Sham Pal himself stated, in his first statement before the police, that Jadu Chatterjee was chewing betel-leaf. Our case is that he went away after his mid-day meal before taking his customary betel-leaf. Why was the prisoner so anxious to state that the man was chewing betel-leaf in his own house, when he saw him? It is clear that the poison would not remain in the stomach for any length of time: the man would naturally throw it out. Therefore it seems probable that Jadu Chatterjee took the betel-leaf, which men are accustomed to take after meals, while he was in the prisoner's house, and that the betel-leaf contained morphia. The deceased, as soon as he felt the effects of the poison, came out in the yard and there he was strangled. The medical evidence is quite consistent with this view.

The next point to which I wish to draw your attention is the firing of the gun by the prisoner's son Hira Lal. The Sub-Inspector, Rasik, says that the son had told him that he fired the gun at night, lest "*anything* should be thrown into the house." Now, "anything" must mean the dead body. How came the son to think of a dead body before the discovery of the corpse? This is an important point. I suggest that the guns were fired to drive away the jackals, which would have unearthed the corpse long before, if they had not been fired at during the night.

Firing of the gun.

The defence would suggest that the body was not all along where it had been found, but brought there the night before the discovery. Now, the Sub-Inspector says that there was no smell before the body was brought out. If, however, the body had been placed there only the night before, there would have been a bad smell, as the earth was in an unsettled state.

The real question which you have then to consider is this:—"Is the evidence adduced by the prosecution reliable?" This is the most important question. I have submitted that it is reliable. The only evidence of murder is, no doubt, that of the boy Gentu; but it is supported by overwhelming evidence. If you believe the boy, the theory propounded by the defence entirely fails. His demeanour in the box must induce you to believe him. He pointed out to the Magistrate, Mr. Collin, the different places in Sham Pal's house which he describes. Remember how difficult it must be to tutor a boy of such a tender age! The theory for the defence will, no doubt, be that the widow had committed the murder. If she had done it, what could have been easier for her than to remove all traces of the corpse? There was no one in the house except Pandu, and she could have easily disposed of the corpse.

Is the evidence reliable?

[THE JUDGE:—A murder is not committed and disposed of so easily as you seem to suggest.]

The medical evidence is entirely consistent with our case. The fact that the larynx was red, supports the theory that the man was throttled.

[THE JUDGE:—You are not putting the medical evidence fairly to the jury.]

I say it is perfectly consistent with our case.

To sum up, you have the following facts clearly established :—

1. Sham Pal went to the house of the deceased and had an interview with him on Wednesday afternoon.

2. Shortly afterwards, Sham Pal was seen with the deceased near the house of Abinash, a neighbour.

3. Jadu Chatterjee entered Sham Pal's house.

4. Jadu and Sham Pal found inside the prisoner's house, the outer door being bolted.

5. A struggle between the two in the court-yard.

6. The finding of the corpse of Jadu Chatterjee.

7. Two boxes, identified as the boxes of the deceased, found in the prisoner's tank.

8. The statement of the accused that he was in embarrassed circumstances, and that he had pledged his things with Jadu. In a hopelessly embarrassed state, it is possible for a son even to murder his own father.

It may be asked, why could not the prisoner have committed the burglary while Jadu was alive? My answer is that Jadu was a cautious man, and fearing detection by Jadu, the prisoner killed him first, and then committed the robbery. The motive for the murder was undoubtedly robbery. I submit, therefore, the case is clearly proved. Against this mass of evidence what has the defence to place before you? Nothing but surmises, unsupported by any evidence whatever. The prisoner has not even attempted to explain the circumstances which stood against him. He says all the villagers have conspired against him. Why should they, if they believe he is an innocent man? Why should his own grandson swear away his life falsely? He has called no rebutting evidence, but merely casts aspersions on the character of this unfortunate Brahmin

widow and her servant. Before I conclude, I must ask you to form your own independent opinion on the case, and not be influenced by the presiding Judge's view of the facts. On questions of fact you are the sole judges, and you must understand your own countrymen better than any one else. I have therefore no doubt you will disregard what the Judge's opinion may be, and be guided by your own.

THE JUDGE:—I have never heard any Public Prosecutor addressing a jury in this way. I am not going to ask the jury to adopt my opinion in the case. They are, no doubt, the sole judges of facts. You have been, throughout, dealing with the case as if you were pleader for a party in a civil suit. This is scarcely a fair way of placing a criminal case on behalf of the Government.

MR. GHOSE:—Under the Indian Criminal Procedure Code, the presiding Judge has the same responsibility as the jury, and I shall contend, under Sec. 298, your Honour ought to give proper advice to the jury as regards the value of the evidence, and I have no doubt your Honour will do so when the time comes, in spite of what the Government Pleader may say.

THE JUDGE:—No doubt it is my duty to give proper advice.

THE GOVERNMENT PLEADER, resuming his address, said:—I have already shown that on the question of motive—while there is an adequate motive for the murder, namely, robbery, there is no motive for a false charge against an innocent man,—mere misconduct as a Panchayet could not be a sufficient motive for the whole village being arrayed against the accused. There is strong direct evidence of murder, and if you do your duty fearlessly, and are not led away by the eloquence

of the Counsel for the defence, you cannot but find the prisoner guilty.

ADDRESS OF THE COUNSEL FOR THE DEFENCE

Mr. Manomohan Ghose said :—

Gentlemen of the Jury :—It would be sheer affectation on my part to ignore the fact, which must be well known to every one of you, that, before the commencement of this trial, I had made an application for the transfer of the case, on the ground that a strong feeling existed among jurors in the neighbourhood of Howrah against the prisoner, chiefly by reason of his alleged victim being a Brahmin by caste. You have undoubtedly read of this application in the newspapers, and if you have done so, you must have also noticed that I did not think it necessary to press that application after the learned Judge intimated to me that he would summon as jurymen persons residing at some distance, and therefore less likely to be influenced by rumours prevailing in the immediate neighbourhood of the occurrence. I am sure none of you will do me the injustice of supposing that in attempting to get this case transferred, I intended, in the slightest degree, to cast any sort of reflection upon the system of trial by jury, which we have all learned to value so highly, or even on the body of honourable men whose names are to be found on the jury list of this district. My sole aim and object was to ensure for the prisoner a fair and impartial trial by a body of his countrymen who would not approach the consideration of the case with any sort of

feeling or preconceived notion against the accused, but would fully realize the sacred character of the duty which the law imposed upon them, and who would listen to the evidence, uninfluenced in any way by the wild rumours which have been circulated by unthinking ignorant people, whose religious feelings have been naturally outraged by the fact that the deceased was an old Brahmin. You, gentlemen, in addition to the grave responsibility cast upon you, of trying the prisoner fairly and impartially, have indirectly also the task of regulating and directing by your verdict the opinions of the unthinking multitude around you, instead of being in the least swayed by their prejudices and notions. I am sure, even those among the crowd assembled in this Court who are clamorous for the blood of the prisoner, will loyally accept your verdict should it hereafter turn out to be, as I trust and hope it will, contrary to their opinions and expectations. I look upon this latter duty you have to discharge as in no way of less importance than the duty you are primarily called upon to perform, because I regard the system of trial by jury, not only as being a very important aid to the administration of justice, but an equally important means of educating the opinions of the people of this country. It has been said that jurymen in all countries are apt to make their verdict accord with popular opinion; but there are cases where jurymen must remember that popular opinion is a very dangerous thing to be guided by, and that their duty, in those cases, is clearly to guide that opinion instead of being guided by it. This, gentlemen, is one of those rare cases, as the evidence must have already convinced you, and as it will be my duty to show, in the course of the remarks which I am

called upon to make on behalf of the prisoner. The learned Judge will probably tell you that you must exclude from your consideration everything that you might have heard regarding this case, except what has transpired in this Court, and if you will follow that direction I have no misgivings whatever as to the result of the trial.

In the first place you will permit me to make a remark which, ordinarily, I should hesitate to make, that during a long experience at the Bar in criminal cases, I have seldom come across a case where, as in this instance, the evidence for the prosecution itself has enabled me to ask the Court affirmatively to come to the conclusion, not merely that the guilt of the prisoner is not proved, but that his innocence is clearly indicated. There is one circumstance in the case for the prosecution which, if it has not already struck you, will, when I point it out, convince you, beyond any reasonable doubt, that the prisoner could not possibly have been the murderer of the deceased. This may be a very strong remark to make, but I hope, before I sit down, to demonstrate to your satisfaction that whoever was the murderer in the case, the prisoner is not the man. I shall ask your permission to point out the circumstance upon which I rely, but I will, in the first place, deal with the case as if it were an ordinary one, and help you to decide the real question which you have to decide, namely,—Is it proved that the prisoner is guilty of the crime? If you come to the conclusion that the prisoner's guilt is not proved beyond all reasonable doubt, it will of course be unnecessary for you to speculate any further as to who may have been the possible murderer, or even whether the prisoner's innocence is made out. Dealing with it,

therefore, as an ordinary case, I must ask you, first of all, to consider the probabilities; and in this connection, it becomes exceedingly important to bear in mind the position of the prisoner in the village and his relationship with the deceased. As a matter of law, it is unnecessary for the prosecution to prove any motive whatever on the part of the prisoner for committing this crime; motive or no motive, it will make no difference in law if the perpetration of the crime by the prisoner is proved beyond all reasonable doubt. But as reasonable men, in considering the question whether it is so proved or not, you cannot but attach, especially in cases in this country, the greatest possible weight to the alleged motive for the crime. The motive imputed in this case for the murder is robbery. No doubt, as the Government Pleader has told you, sometimes the most inhuman crimes are committed for the sake of robbery. In this particular case, the motive for the murder is said to be robbery; and whether, even from such a motive, the prisoner could have killed the only benefactor and supporter he had in the village, at a critical time and when he was himself in great difficulties, is a question which is deserving of your most careful consideration. I can conceive of no crime more inhuman than the one attributed to the prisoner by the prosecution. Imagine his position in the village on the 29th of August last! He was being, I may almost say, persecuted by the combined villagers, who had started a case against him, which was then pending and which for aught he knew might have resulted in his imprisonment. The evidence for the prosecution against him had been closed, and all that was wanting to be done was the production of evidence

The Motive for the Crime.

for the defence, which he was then trying to secure. The only person who assisted him, or who wished to assist him, and who, presumably, incurred the displeasure of his fellow-villagers by coming all the way to Howrah for that purpose, was the deceased, Jadu Chatterjee. It is true that the witnesses do not admit that Jadu Chatterjee had so far espoused the prisoner's cause as to remark in the Court that he would, anyhow, see the prisoner acquitted; but no one can doubt what appears clear from the evidence, that Jadu Chatterjee was keenly interested in the acquittal of the prisoner, and was doing all he could to help him out of the difficulty, on Tuesday, the 28th of August, the day before he was killed. The case was at this stage postponed to the 3rd of September, and the next afternoon, that is the afternoon of Wednesday the 29th August, the prisoner had, admittedly, a consultation with Jadu Chatterjee in his own house as to the evidence he ought to adduce on behalf of his defence, in order to meet the evidence of one Hari Pan, a witness who had been examined by the prosecution against the prisoner. On the same night Jadu Chatterjee is killed, and you are asked to believe that the prisoner is the man who, at such a time, killed the only benefactor he had in the village! Gentlemen, if the prisoner is guilty, it is impossible to conceive of a case of murder of a more aggravated character; but the question is, whether you can bring yourselves to believe that any man in this country, however depraved, be he a robber or Dacoit by profession, has ever been known to commit a crime of such brutality. You are told that the prisoner was in need of money, and that his house had been mortgaged. Is that at all an unusual occurrence

in this country? I would ask you, how many cases have you come across where, for the sake of money, a man has been tempted to kill his only friend at a time when he is in the utmost need of that friend's assistance and influence? I shall deal with the oral evidence later on, but remembering how easy it is, in this country, to get witnesses to swear to any state of things, you must attach the greatest importance to the question of motive and to the probabilities of the case. In this connection, I have to point out to you one very remarkable circumstance which, in my humble judgment, carries far greater weight than the testimony of any number of witnesses for the prosecution.

Conduct imputed to the Prisoner.

We are told that the object of the prisoner on the afternoon of Wednesday was to decoy Jadu Chatterjee into his (prisoner's) own house, and there to murder him at about four o'clock, in the hope and with the intention of being able to commit a successful burglary in the dead of the night. I must ask you, for the purposes of this argument, to try and place yourselves, if you can, in the position imputed to the prisoner by the prosecution. You will then consider if it is likely that, on the Wednesday afternoon, he should have been tempted to commit the murder, in the expectation of being able, later on, to successfully commit a further crime, and hoping to escape detection by the inmates of the house, who would, in the ordinary course of things, be likely to remain awake all night awaiting Jadu Chatterjee's return. How could the prisoner possibly have imagined, at four o'clock in the afternoon, that he would be able successfully to commit a burglary after midnight,

when he must have known that the wife and servant of the deceased would, in all human probability, remain awake in the expectation of Jadu Chatterjee's return home? The dinner of the deceased was, according to the story of the widow, kept for him, and he was never in the habit of staying out at night: that would lead the prisoner all the more to expect that detection would be certain in such a case, if he attempted to make an entry into the house during the night in order to commit burglary. This is a very important consideration, and, to my mind, it ought to enable you to dispose of the case altogether. According to the case for the prosecution, the prisoner not only commits a cold-blooded murder in the afternoon, and conceals the corpse carefully in his own house, but comes out, at least eight or ten hours after the commission of the murder, a distance of about a quarter of a mile, makes a big hole in the wall of Jadu Chatterjee's house, and quietly comes away with all the jewels inside the box, together with the padlock and key of the latter, without detection. I ask you, gentlemen, whether, if a man yields to the temptation of the moment and commits the awful crime of murder, whether he would, ordinarily, have the nerve to act subsequently in the way the prisoner is said to have acted? It is not suggested that he had any accomplices, and therefore the conduct attributed to him by the prosecution passes all human belief. I ask you, therefore, to consider carefully how far you think the story of the prosecution is a probable one. If it does not seem reasonable and credible as regards its general features, you will be amply justified in rejecting it, and finding the prisoner not guilty. It is no part of your duty, as the learned Judge will probably tell you, to find out who killed the deceased if

the prisoner did not. Your functions are not those of a Commission appointed to find out the truth of a case, nor is it my duty to indicate to you, in the least, who are the persons who ought to be held responsible for this great crime. All that you have to do in this case is to say whether you are satisfied, beyond all reasonable doubt, with the evidence against the prisoner; and all that I have to do is to help you to answer that question. The motive attributed by the prosecution to the prisoner, namely, that of robbery, fails altogether. The conduct attributed to the prisoner is not only inhuman in its character, but is also not consistent with the probable conduct of an ordinary criminal under such circumstances—all the probabilities are against the case for the prosecution being true. But over and above all that, I am able in this particular case, as I have said, to point out to you one circumstance which enables us to find out in what quarter the guilt really lies; but this is a circumstance which, with your permission, I shall discuss last of all.

(*It being now five o'clock, the Court rose for the day.*)

30TH NOVEMBER 1894.

MR. GHOSE resumed his address for the defence at 11 A.M. He said:—Gentlemen of the Jury, in the few remarks I made yesterday I pointed out to you the necessity of carefully considering the probabilities of the case in order to test the value of the direct evidence adduced by the prosecution. It has been said that witnesses may lie, but circumstances cannot. This proposition is not always correct according to human experience. Circumstances do lie sometimes just as witnesses do, and the danger is in relying upon circum-

stances which are themselves based upon the testimony of false witnesses, or where the circumstances are perfectly consistent with the hypothesis of the prisoner's innocence. But in judging of the testimony of witnesses in this country, you must be well aware of the danger of relying upon sworn testimony where it is opposed to ordinary probabilities, or to the ordinary course of human conduct. Experience teaches us that in weighing the testimony of Bengali witnesses a jury must attach greater weight to the conduct of the witnesses themselves, than to the words uttered by any set of witnesses, however credible they may appear to be. If you bear this in mind I shall be able to show you, as I analyze the evidence, that the whole of it in this case is trumped up and false, and that no reliance whatever can be placed upon the testimony of a single witness, except the medical and other formal witnesses, who have been examined in this case. A careful consideration of the medical evidence, and the report of the Chemical Examiner to Government, must convince you that in this case, poor Jadu Chatterjee was not strangled to death, as alleged by the prosecution, on the afternoon of the Wednesday, but that he was killed in cold blood after he had taken his night meal, and that the cause of his death was poisoning by morphia. This is one of the crucial points of the case, and if you come to the conclusion that Jadu Chatterjee was poisoned by some person or other, and that the poison was administered, in all probability, with his night meal, the whole case against the prisoner falls to the ground. In this connection you must remember one very important fact: the case had been committed to the Sessions by Mr. Collin before the

The Medical Evidence.

Chemical Examiner had made any examination of the viscera of the deceased. No one at that time knew what that examination would or might disclose, and the story then was, that he had been strangled by the prisoner in the manner described by the boy Gentu. That story, if a fabricated one, would, of course, not be made glaringly inconsistent with the result of the medical evidence, so far as it was known at the time; although I contend, after the answers given by Dr. Amrita Lal Deb in this Court, that the medical evidence is really inconsistent with the story originally invented. According to Dr. Amrita Lal Deb, who made the *post-mortem* examination, the meal in the stomach was entirely undigested, and a meal, if it were his mid-day meal, taken at one o'clock, would be more than half-digested by four o'clock in the afternoon, the time alleged for the strangulation. This evidence, taken together with the further statement of the same Medical Officer, that a careful examination of the throat disclosed no external or internal marks, clearly indicates, to my mind, the falsity of the story set up through the mouth of the boy Gentu. It was very fortunate, and almost accidental, that the Medical Officers, who made the *post-mortem*, thought it desirable to preserve the stomach and its contents to send it to the Chemical Analyst for examination. Had this not been done, we should never have known of the administration of morphia to the deceased, and the prosecution would then have relied entirely upon the strangulation theory. The result of the chemical analysis, after the committal of the accused, altogether paralyzed the efforts of those who were instrumental in getting up this case; but rather than be defeated by the late discovery of the Chemical

Analyst, these wire-pullers rose to the occasion, and did not hesitate to twist the result of the chemical analysis to suit their own ends; for the story now is that the prisoner Sham Pal must have administered morphia to the deceased before strangling him. The death of the deceased must anyhow be attributed to the prisoner, and the case for the prosecution, therefore, practically is,—"We don't care how Jadu Chatterjee was killed; in whatever way he was killed it was the act of the prisoner and no one else." One little circumstance, however, has transpired in this case which, to my mind, above all others, conclusively establishes the entire falsity of the charge as well as the careful tutoring which this wretched boy Gentu has undergone. One such circumstance is, to my mind, more pregnant and suggestive than fifty witnesses, however reliable, whom the accused might have called. That circumstance is this: so long as the case was before Mr. Collin the Committing Magistrate, the story was one of simple strangulation, and no suggestion of any betel-leaf or betel-stains in the courtyard of the prisoner was made. The chewing of the betel-leaf becomes important enough when you have to suggest how, possibly, the prisoner could have administered morphia. The mode ingeniously suggested by the Government Pleader whereby the morphia was administered, was the offering of a betel-leaf containing the poison, and this wretched boy is theatrically made to say, for the first time, in the Sessions Court, that he noticed, on the floor where the deceased was lying, stains which, he was informed by the prisoner's wife, were stains of chewed betel-leaf spat out by some one. It is perfectly clear that not a word was said to Mr.

The boy Gentu.

Collin, at any time, regarding these betel-leaf stains, although the boy did speak of some stains which he pretended to be of blood. These blood-stains are now converted into betel-leaf stains, and the prisoner's wife is made to impart this important information to the boy. No stains of any kind, however, were shown by the boy to Mr. Collin. The boy was examined on two different occasions by him, but not a word did he then say regarding any communication made to him by the prisoner's wife on the subject of the stains. It became important to invent these stains, as of chewed betel-leaf, after the result of the chemical analysis was known, and when it became necessary for the prosecution to invent a mode of administering the morphia to the deceased by the prisoner, when the presence of morphia in the stomach of the deceased had to be accounted for. The very fact that the boy had before the Magistrate spoken of certain stains as those of blood, clearly proves that what he now alleges regarding the communication made to him by his *Didima* (grandmother) is manifestly a subsequent invention. From another point of view, "betel-leaf stains" were decidedly an improvement on "blood-stains," after what Dr. Purves, the Civil Surgeon, had said on the 14th September as to bleeding not being a necessary result of strangulation. The wire-pullers on the side of the prosecution evidently thought that the introduction of the betel-leaf stains into the boy's evidence, while it would be conclusive of the prisoner's guilt, was too clever to be detected. But I think, gentlemen, you, after what I have pointed out, will agree with me that the trick is too palpable to deceive any jury of experience. The boy is very artfully made to say now for the first time in this Court:—"I

asked my *Didima* what the stains were; she said it was the spittle of those who had been chewing betel." This was very artistically done! I have put in the boy's depositions before Mr. Collin, and there is not a word there regarding this incident. The reason of this omission is plain. At that time nobody knew that there was morphia in the stomach of the deceased, and you now find the Government Pleader himself coming forward to suggest that morphia must have been administered by the prisoner by means of a *pan*, or betel-leaf. It is clearly to enable the Government Pleader to make use of such an argument that this wretched boy has been tutored to invent this story of the stains; and if that be so, is it necessary for me to dwell at any length upon this point in order to show you the worthless character of this boy's evidence? We are now told that morphia had to be administered in order to take away the power of resistance. But according to the same story, we are also told that the man must have spat out the betel-leaf when he tasted the bitterness of the morphia. He was immediately strangled by the prisoner, but it was very unfortunate for the prosecution that the prisoner failed to leave any marks of the strangulation. I have often thought, in the course of my experience, that it would be wiser, in most cases of murder, to withhold from the police, or the parties concerned, the result of the *post-mortem* examination; because we all know that in this country witnesses are tutored, and most successfully tutored, after the result of the *post-mortem* examination has been made known. In this case, all that was known on the date that the boy Gentu first told his story, was that the cause of death could not be ascertained by the

doctors. The coast was, therefore, perfectly clear, and any story could be safely invented to suit the exigencies of the case, and I feel certain that, if at that early period of the case the result of the chemical examination had been known, we should have had a slightly different story from the boy Gentu, who would then have told us that refreshments had been served to the Brahmin guest by the prisoner in the latter's house, and we should then have had the Government Pleader arguing that the prisoner must have administered the poison in those refreshments. Under the circumstances of the case, can there be any doubt in your minds of the fact that Jadu Chatterjee was poisoned, either in his own house or elsewhere, during the night of Wednesday, and that, having regard to the nature of his stomach, he died, as has been deposed to by Dr. Amrita Lal Deb, within an hour or an hour and a half of his last meal? These circumstances, and the medical evidence, entirely dispose of the story told by the boy, who is the only witness brought forward to prove the charge of murder against the prisoner. But although I have shown sufficient reasons to induce you to disbelieve the boy's evidence as that of a witness manifestly tutored for the occasion, I desire to make a few general observations touching that evidence. You are well aware that in this country children are frequently brought up as witnesses for two reasons: Firstly, because it is ordinarily supposed that children are more truthful than grown-up people; and secondly, because it is exceedingly difficult to test their evidence by cross-examination. It is now a common trick in this country, in false cases, not only to select children as witnesses, but to select them from among

Child Witnesses.

the relatives of the accused persons, and very often those who are not experienced in the art of litigation prevailing in this country are naturally influenced by the argument, why should a relation of the prisoner, perhaps his own child, swear falsely against him? From what you know of the habits and ideas of your own countrymen I feel sure you will not be deluded by any such line of argument. Your own experience will tell you that where a man is really guilty of a crime his own relatives will tell any number of lies to save him rather than come forward to tell the truth, and you may fairly and legitimately presume, that if a relative comes forward to give evidence against the prisoner, that fact in itself, in this country, is cogent evidence to show that the relative giving evidence has himself some sinister object to gain, or some temporary evil to avoid by the evidence he is giving. The Government Pleader has argued, in the case of one of the witnesses—Bindu, the grandmother of this boy—that the sanctity of an oath had so far overwhelmed this woman that she could not help admitting before you that what she had told the police was false, and that her present story was true. I appeal to you, gentlemen, to say whether people of this class in this country have so high a regard for the sanctity of an oath as to come forward to tell the truth, even at the sacrifice of the lives of their relations. Have you ever come across a single illustration of this sort? I can only say that if the Government Pleader's remarks had the least foundation in fact, the administration of justice in this country would be far easier and far more satisfactory than it now is. This boy Gentu is first of all brought forward as an eye-witness of the murder, and in order

that his story should not remain uncorroborated, another boy named Gaur Hari, somewhat younger than himself, is also put forward as his companion on the occasion. The conduct of this other boy throws considerable light on the whole matter. When this boy Gaur Hari is first questioned, on the 7th of September, he said to the police: "I never played with Gentu in Sham Pal's house, and never saw him taking *tal* and *amra* fruits from Sham Pal's house. I did not see Sham Pal take any Brahmin to his house on any occasion, nor did I see any one killing or beating anybody in Sham Pal's house. I never heard any *hû hû* sound in Sham Pal's house." The same wretched boy, five days afterwards, is prevailed upon to tell altogether a different story before Mr. Collin, and is made to corroborate the boy Gentu in every material respect; but when he is brought to this Court he is carefully told to refuse to answer every question in cross-examination, outside the story he had been tutored to tell. It is true that the boy Gentu was cleverer, being more precocious, and that he glibly answered most questions; but apart from the improbability of the boy coming to Sham Pal's house on that occasion, for the sake of *tal* and *amra* fruits, his whole story regarding the murder and regarding the seeing of the corpse underneath the staircase is too absurd to require serious consideration. You must be aware of the numerous cases already on record, with evidence, subsequently shown to be utterly false, of children swearing away their father's lives, and I must, therefore, ask you to dismiss altogether from your minds the evidence of the two boys who are theatrically placed before you to produce conviction in your minds. If that evidence is

Attempt to corroborate Gentu.

disbelieved there is an end of the whole case, and for the purpose of obtaining your verdict it is scarcely necessary for me to detain you at any greater length; but there are features in the case which it is impossible for me to pass over in silence, and you will naturally expect from me comments upon the evidence of most of the witnesses who have been examined by the prosecution. But before making those comments I think I ought to place before you, categorically, certain questions of fact which you incidentally ought to decide in order to arrive at a right conclusion. There is one matter, however, regarding which some explanation may be due from me. The learned Judge was probably surprised at my not having cross-examined the witnesses on the question of the identity of the corpse. In an ordinary case I should undoubtedly have done so for the purpose of showing that the prosecution had failed to establish the corpse found, to be the body of Jadu Chatterjee; but in this particular case, I advisedly did not intend to rely upon any defect in the proof of the identification of the body, because it was very important for me to show that the stomach in which the morphia was found was the stomach of the deceased. At the same time, I do not for a moment admit that the evidence of identification is in the least degree satisfactory, or that the body was really identified, as the witnesses say, by the bent toes. However, I am quite content to assume the corpse to be that of Jadu Chatterjee, as I do not dispute that the poor old man was poisoned to death, as the chemical report shows.

Identity of the corpse.

The first question of fact in the case which you have to determine affecting the truth of the accusation against the prisoner, is whether

When was the Prisoner first accused?

it is true that early in the morning of the Thursday, as alleged by Mati Debi, she had accused Sham Pal of having taken her husband away on the previous afternoon on the pretext of finding a purchaser for the *tabij* (armlets). If this accusation had really been made at the earliest possible opportunity it would not necessarily prove its truth; but if I can satisfy you that such an accusation was not made the next morning, it will be very strong evidence to show that it is an afterthought, and, therefore, not true. I am prepared to satisfy you that this accusation was made for the first time some three hours after the arrival of the Sub-Inspector of Police on Thursday, namely, at about 7 P.M. When the Sub-Inspector first arrived no such charge against the accused was preferred, and it must have been while the police-officer was engaged in searching the place that, either at the suggestion of some designing person or otherwise, Mati Debi thought it desirable to invent the story that Sham Pal had taken her husband away on the previous afternoon.

The First Information.

The first information of the occurrence, which was lodged by the servant Pandu at Domjore Police Station, was at noon on Thursday, the 30th August. Domjore is nine miles from the Police Station, and we have it in evidence that Pandu left the house of Jadu Chatterjee, accompanied by Uday Chaukidar, at about nine o'clock on the morning of Thursday. These two men were deputed, not only by Mati Debi, the widow, but by her neighbours and the Panchayets of the village, to report the occurrence at the Police Station. They were also instructed to carry an important document, namely, the written

report (*Ex.* 4), which by law the Panchayets were called upon to send to the officer in charge at the Police Station. I will come to this document later on, and show its importance; but, first of all, I wish to draw your particular attention to the statement made on Thursday, at noon, at the Police Station by Pandu himself, which was immediately reduced to writing by the Sub-Inspector, and was read over to Pandu and signed by him. This is a very important statement, according to the present case for the prosecution. Pandu had been sent to the Police Station long before Sham Pal had been accused. If there were an atom of truth in this accusation, you would naturally expect Pandu himself to accuse Sham Pal, or to say that he had been suspected, when he deposed before the police-officer on Thursday at noon. He did nothing of the kind; not only was there no mention whatever of Jadu Chatterjee going with Sham Pal or following him, or of the armlet, but Pandu went out of his way to state before the police-officer: "*I do not suspect any one in this case.*" It is no answer to my argument to say that at that time it was not known that Jadu Chatterjee had been killed. Pandu had gone to report the occurrence of the burglary during the previous night, and of the fact that Jadu Chatterjee was missing, he not having returned home since the evening. If, therefore, Sham Pal had been previously accused or suspected of having decoyed Jadu Chatterjee away from his house, can you as reasonable men believe for one moment that Pandu was ignorant of that fact at noon on Thursday, and that he did not even suspect Sham Pal of having been implicated in the disappearance of Jadu Chatterjee? You will note the important

statement by Pandu: "My master is absent from 4 P.M. yesterday to 9 A.M. this morning. *I could not find any clue to his whereabouts. I do not know where he has gone to.*" This conclusively shows that, at any rate, up to the time of Pandu leaving the village of Bakshara, at five o'clock on Thursday morning, no suspicion of any kind had fallen upon the prisoner: and if that be so, the whole story of Sham Pal having decoyed the deceased the previous afternoon, as well as the story regarding a purchaser of the armlet, is proved to have been fabricated subsequently. When I cross-examined Pandu regarding this statement, he tried to fence with all my questions on the point; but the Government Pleader cannot possibly get over this first information lodged by Pandu by alleging any sort of partiality or misconduct on the part of Rasik Lal Bose, the Sub-Inspector. According to rules, the police-officer made three copies of this first information before he left the Police Station, and two of those copies were despatched to head-quarters by twelve o'clock the same day, and before the Sub-Inspector left for the village, at a time when he had not set his eyes upon the prisoner or any of his friends, if he had any. In this first information Pandu made several important statements which the prosecution now wished to repudiate if possible. But, besides the fact I have just mentioned, there is another insuperable difficulty in their way. This very first information had been read out to Pandu when he was examined before the Committing Officer, in the course of his examination-in-chief, and inasmuch as the wire-pullers of the prosecution had not then concocted the whole of their story in all its parts, Pandu was taken unawares by Mr. Collin, and then admitted to him the

correctness of the statement in the first information (*Ex. E*), which Mr. Collin had caused to be read out to him in Court. There was then no suggestion regarding the police having improperly or incorrectly taken down Pandu's statement, and it was then part of the case for the prosecution that Pandu had made every statement therein recorded. What value then would you attach to Pandu's feeble attempts at repudiating some of those statements before you? It is significant, too, that the very points on which Pandu has evidently been instructed to recede from his first statement are points of the greatest importance, affecting the truth of the present story. For instance, Pandu does not remember if he said to the Committing Officer that the hour of Jadu Chatterjee's disappearance was four o'clock in the afternoon. He now sees that if the hour 4 P.M. is adhered to, the story of the prosecution becomes highly improbable. He further thinks it necessary now to deny that he told the police-officer: "Jadu Chatterjee never trusted his wife with his keys or money; I saw him keeping the key in the thread on his waist always. I do not remember whether I heard that Jadu Chatterjee had gone to Sham Pal with the *tabij* that Wednesday afternoon, before or after I went to the police, or before or after the police came to the village. I do not remember whether I heard anything about the *tabij* on that Thursday or not. I did not say to the Sub-Inspector that I had searched for Jadu Nath and could find no clue, and that I did not know where he had gone. I did not say to the police that I suspected nobody of the offence. If the Sub-Inspector wrote so, he wrote what was false." You will not fail to detect the hand of the tutor in these

answers, inconsistent as they manifestly are with his own admission before the Committing Officer that the statements contained in *Ex. E* had been correctly recorded by the police-officer.

Report of the Panchayet.

I now come to a very important document which, to my mind, sets at rest all doubts on the subject, if, indeed, there were still any room for doubt. That document was, as you saw, discovered by me in the Committing Officer's record, apparently unnoticed by any one connected with the case until I discovered its importance, for it had not even been made an Exhibit before the Committing Officer, though it had been attached to the first information of Pandu. This is *Exhibit No.* 4, the report of the Panchayet, written in the house of Jadu Chatterjee on Thursday morning, and made over to Pandu and Uday Chaukidar when they were going to the Police Station. You will remember on this point the important evidence of Beni Doctor (No. 8), who evidently, when he came to the witness-box, had completely forgotten the existence of this document, or had thought it would not be discovered by me. He admits in cross-examination, that on the Thursday morning all the Panchayets of the village had been sent for, and they all came to Jadu Chatterjee's house, with the exception of Behari Das. The witness himself was there that morning in his capacity of Panchayet. All of them, including the witness (who admitted he was no friend of the accused), were jointly responsible for what was written in their presence by one of the Panchayets, Nibaran Chakrabarti. The report had been read out to all of them after it had been written, and then made over, with the full approval of everybody present, to be

taken to the Police Station. I was at first afraid that Beni Doctor might not admit the identity of the document itself, after the story he had told in his examination-in-chief, and as you saw, I at first showed him only the first six lines of the writing, folding up the rest. He, after reading those lines, admitted that that was the paper, and that the lines were correctly written. But when I showed him the next line containing the hour of Jadu Chatterjee's disappearance which was given as 4 P.M., the witness, like Pandu, immediately said that the hour was a mistake, but that the rest of the writing on the paper was exactly the same. You will not fail to draw the inevitable inference from the witness's present reluctance to admit that 4 P.M. was the hour of disappearance. The genuineness of the paper is indisputable; it is conclusively proved by the evidence of the Sub-Inspector who received it, and the prosecution have not ventured to call the writer, Nibaran Chakrabarti, to contradict any portion of the contents. The importance of the document, however, to my mind, does not lie only in the recital of the hour of disappearance. The document is absolutely silent as to where Jadu Nath had gone the previous afternoon, and it contains these words: "*No clue can be found as to where the aforesaid Chatterjee went at* 4 P.M. *yesterday afternoon, or about himself.*" Now, you have been told that at the time that the paper was written murder was not suspected; nobody contends that it was. But if it be true that the widow of Jadu Chatterjee had already publicly accused Sham Pal of having taken her husband away for the purpose of disposing of the armlet, can you possibly conceive of the villagers being ignorant of that fact when they were solemnly writing this document?

They go on expressly to say: "Having heard of this fact *from his servant Pandu and his wife*, we, on coming to the scene of occurrence, saw the locality." Such a statement completely negatives the truth of any sort of accusation having been made, or any sort of suspicion having been even entertained against Sham Pal. This document is practically admitted to be that of Beni Doctor himself, because he had a hand, jointly with the other Panchayets, in drafting it, and out of his own mouth, therefore, the whole story which he now tells us, regarding Sham Pal having been accused by the widow, and about the mosquito-bites, &c., on the person of Sham Pal on Thursday morning, is shown to be utterly false. Thus, the first information of Pandu, orally given to the Sub-Inspector on Thursday at noon, is further corroborated by the contents of this document, *Ex.* 4. They tally with each other, and they show that prior to the departure of Pandu for the Police Station, not only was no person suspected, but that the time of the disappearance of Jadu Chatterjee was placed at 4 P.M. on the Wednesday, some three hours or more after Jadu Nath had taken his mid-day meal. I therefore have no hesitation in asking you to come to the conclusion that the whole of this gigantic story now put before you, of Jadu Chatterjee having been decoyed by Sham Pal, his having taken the *tabij* with him, and of Sham Pal having been accused or suspected by the wife the next morning, is a manifest fabrication for the purpose of getting this unfortunate man hanged, and also probably for the purpose of diverting suspicion from the real perpetrators of this great crime. There can be no doubt, therefore, that Sham Pal was never accused of this crime until, on the arrival of the police-

officer, it became necessary to find a victim, chiefly with the object of diverting all suspicion from the real criminals. The Sub-Inspector of Police arrived at Bakshara after despatching copies of Pandu's first information to head-quarters, at about four o'clock in the afternoon of Thursday the 30th, and it is in evidence that the accusation against Sham Pal was for the first time made by Mati Debi at about 7 P.M., when her own statement was recorded by the police-officer. The correctness of this record is impugned by the Government Pleader, and with that matter I will deal later on, when I discuss the evidence of the Sub-Inspector. It is perfectly clear to my mind that when making her statement before the Sub-Inspector, it either became necessary for her to throw the Sub-Inspector on the wrong scent, or that she was put up by some one or more of the villagers to accuse Sham Pal as one of the two obnoxious men in the village—one had already been disposed of by the administration of morphia, and this was a favourable opportunity for disposing of the other.

Relations between Mati Debi and Pandu.

I shall next invite your attention to that part of the evidence which throws light upon the relations which existed between Jadu Chatterjee and his wife, as well as those between Pandu and his master and mistress. I desire, in the first place, to guard against its being supposed for a moment that it is necessary for me in this case to indicate to you who was probably implicated in this crime if Sham Pal was not guilty. It is no part of my business to undertake that task, nor am I called upon to cast any suspicion on any person in particular; as, after all, such suspicion may be wholly groundless.

But there are circumstances in the case which it would be impossible for me, or for you trying the case, altogether to ignore; and I should not be doing my duty if I failed to point out to you that there are indications in the evidence which go to divert suspicion from the prisoner. The Government Pleader has indignantly told you that the defence in this case have made groundless imputations on the character of this unfortunate woman in connection with her servant Pandu. You have heard that the prisoner himself, before he was defended by any one, made a statement before the Committing Magistrate to the effect that there was a general rumour in the village of an improper intimacy between this woman and Pandu, and that Jadu Chatterjee himself was, in a manner, regarded as an outcast by the villagers for not having asserted his own authority in the matter, as a husband and as the master of the house. If this rumour were well founded, it would be impossible for us to prove its truth, nor are we called upon to prove in this case that such a rumour was really well founded. The existence of the rumour would be only relevant for the purpose of showing the truth or otherwise of the prisoner's statement, that he had requested the woman to get rid of Pandu, and that this had really annoyed her to such an extent as to lead to the present accusation. It is not possible that after the woman had made this accusation, she could be induced to admit the truth of the communications alleged by the prisoner, and hence it is that out of regard for her feelings as a woman, I refrained even from putting any questions to her on the subject. But this will not preclude you, gentlemen, from drawing such inference as you may legitimately

draw from the facts laid before you. Jadu Chatterjee was an old man, who lived practically apart from his wife, though they lived in the same house. His wife went away clandestinely to Orissa on a pilgrimage, some years ago, when she was about twenty-six years old, against the wishes of her husband, and brought this young servant back with her, and he consented to work in the house without any sort of remuneration except board. It is perfectly true that we have not succeeded in eliciting from the witnesses who have been examined on the subject, that this caused any scandal in the village, or that Jadu Chatterjee was not allowed to smoke the *hooka* of the Brahmins of the village; but I ask you, gentlemen, to consider whether, having regard to Hindu ideas on the subject, the circumstances which I have already pointed out, would or would not be likely to create a scandal, though the scandal may possibly have been unjustifiable. The woman herself admitted before the police-officer that she was not on good terms with her husband, who never trusted her with money or ornaments, and that, even a few days before the disappearance of her husband, he refused to allow her to use a necklace which she wanted from him. It is true that the old man did not publicly show any sense of displeasure as against Pandu; but it is easily conceivable that he might have thought that his doing so would only encourage scandalmongers in the village whose gossiping propensities he would naturally be anxious to discourage.

Subsequent conduct of the Widow.

The Government Pleader has appealed to you not to draw any inference whatever from the fact that the woman did not adopt a widow's costume for several weeks after her husband's

corpse had been found, and that instead of doing so, she preferred to wear jewellery on her person. I also, with equal confidence, appeal to your experience as Hindu gentlemen, thoroughly conversant with the ideas and the manners of the people of this country, whether you have ever heard of a Hindu woman among Brahmins indulging in ornaments and in a married woman's costume even half-an-hour after her husband's death has been reported to her. This is a question upon which the learned Judge, who is a foreigner, may find some difficulty in expressing any opinion, and it is a question eminently for you, by the light of your experience, to answer. The Government Pleader says that the woman had to consult priests on the subject before changing her costume. Have you ever heard of any such reason or excuse ever being set up by a Hindu woman, especially by one who professes to be a Brahmin? It is true that she has, since the committal of the case, thought fit to adopt a widow's costume; but you have to judge of her conduct according to Hindu ideas, and I have no hesitation in saying that every one of you must have been dreadfully shocked when you heard her admit that even after the discovery of her husband's corpse, she continued to put on jewellery and a cloth with coloured braiding, which only a married woman, or an unmarried girl, is allowed to wear in this country.

Was the Niece in the house?

Mati Debi has told you that although the inmates of the house generally consisted of herself, her husband, and the servant Pandu there was on the fatal night sleeping with her a little girl—her niece—who lived with her for about four or five months previous to the occurrence. The point by itself

is of no great importance, to my mind; nor, when I cross-examined her about it, was I so foolish as to suggest, as supposed by the Government Pleader, that the introduction of this little girl into the house that night was intended by Mati Debi to render the theory of an improper intimacy between herself and Pandu improbable. My object was simply to show that Mati Debi supposed that if the child slept with her that night that would be a circumstance in your judgment favourable to her character, and she probably further intended that this circumstance would completely explain her having slept apart from her husband for several months; and one can have very little doubt that this was why she has now fabricated the story that her niece was with her that night. In this respect she is clearly contradicted by her own statement recorded by the police-officer on the evening of the 30th August, when she stated that the only inmates of the house that night were herself and the servant Pandu. That she did say so to the police is further borne out by her answer in her first deposition on oath before Mr. Banerjee, the Deputy Magistrate, which I have put in, in which she would have mentioned the niece if the child had really stayed with her that night. The Sub-Inspector of Police swears that at no stage of the investigation was he informed of the child staying in the house, and that it is not true, as now alleged, that the child had even been produced before him. Under these circumstances I have no hesitation in asking you to come to the conclusion that the statements of the woman and of Pandu, as well as of her brother Akhoy Kumar Banerjee, on this point, are undoubtedly false.

Mati Debi's conduct on Wednesday night.

It is very important that you should carefully consider the conduct of Mati Debi during the night of the occurrence. She tells us that though, as a Hindu wife, she never took her meals before her husband during the daytime, she was in the habit frequently of taking her night meal by herself, because her husband used often to come home late. I ask you to consider how far it is probable that a Hindu wife, who is on good terms with her husband, would ever think of dining and going to bed before her husband returned home. Such a thing may happen in rare instances, but you will hesitate to believe that it should have been the ordinary practice in the family, if the two were on such terms as she now asks you to believe they were. Then you have this strange fact that, although Jadu Chatterjee never was absent from home during the whole night, neither his wife nor his servant ever inquired during that night whether he had returned, nor did they care to inquire where he had gone. Sham Pal's house was so near, that if Jadu Chatterjee had gone with him, what was there to prevent Pandu from going to inquire of Sham Pal why Jadu Chatterjee had not returned? The wife tells us that, though her husband generally came home late, she never asked him where he had been. This must appear to you to be very extraordinary conduct on the part of a wife, whatever her nationality may be. The story now told about the bolting of the doors and putting on the chains attached to them, is altogether an extraordinary one, and you have to judge whether the whole of this burglary story, and the so-called discovery of the burglary in the morning, are not theatrical. You must look at the whole case in all

its parts in order to be able, satisfactorily, to answer this question. You remember how, when taken unawares, she suddenly made a remarkable statement that on Wednesday, the 29th August, Jadu Chatterjee took rice for his night meal, and immediately corrected herself and said that "rice was ready for him that night." I asked her whether he took rice the night before, but she professed not to remember. If rice were his ordinary night meal, you are well aware that it would be necessary for her to keep the rice warm for her husband, who would naturally object to eating a meal of cold rice. Does the woman tell us that she ever got up during the night to look after the rice in order to find out whether it was getting cold or not? These are apparently trifling details, but they have some importance in the case. Her conduct the next day appears to me to be equally theatrical and strange, and I have already shown to you how false her story is that she accused Sham Pal early in the morning. In considering the probability of the theft having been committed by an outsider, it is worthy of notice that the very account-books in Jadu Chatterjee's handwriting, which contained a list of the pledged jewellery, although they used to be inside the chest, were left behind by the thief, as if purposely to enable Mati Debi to give a list of the contents of the chest. These are some of the indications in the story which will, no doubt, convince you that this burglary, in one sense, was a sham, or, in other words, that it was not committed by any outsider.

Combination in the village against the Prisoner.

The next point to which I wish to draw your attention, is the strong combination in the village against the prisoner Sham Pal. The Government Pleader asks you why, if Mati Debi is

not an object of sympathy, and if Sham Pal is innocent, should the villagers be against him? I must decline to answer such an absolutely irrelevant question, because the guilt or innocence of the prisoner must not be made to depend upon the opinion that the villagers rightly or wrongly held of him. Nor is the character of the woman in any way relevant, except so far as it might throw light upon the credibility of her story. It is clear from the evidence that, for some reason or other, Jadu Chatterjee and Sham Pal, two of the Panchayets of the village, had incurred the serious displeasure of most of the villagers, among whom the most active workers were Mahendra Ghosh, commonly known as Mahendra Katuria, the landlord of the village, Beni Doctor the witness, Mahendra Chakrabarti, and some others, who had been for some time trying to get the prisoner and Jadu Chatterjee removed from the office of Panchayet. Beni Doctor had very reluctantly to admit the genuineness of the petition of the 16th March 1894, put in by us as *Ex.* 1, which will show that most of the villagers joined in the movement and prayed for the removal of these two Panchayets. The Government Pleader says, petitions for the removal of Panchayets are very common in this country. That may be so; but in this instance you have the fact that nearly the whole village was arrayed against these two men, and that, not satisfied with presenting petitions against them, some went the length of prosecuting the prisoner on a criminal charge, which, whether it was well founded or not, was supported by almost the whole village. You have it that Beni Doctor and others were examined in that case for the prosecution, on Tuesday the 28th August, the day before Jadu Chatterjee dis-

appeared, and you all remember the fact that Jadu Nath was the only man in the village who was then on the side of Sham Pal. That was the state of feeling on the date of the occurrence, between the villagers on the one side and Sham Pal on the other, and you will have no difficulty in concluding that, even the day before Jadu Nath disappeared, the villagers would have been only too pleased to have heard that Sham Pal had been accused of murder. You have further the fact that Mahendra Katuria, Beni Doctor, and Mahendra Chakrabarti play very important parts during the investigation of this case. Mahendra Katuria is the very man who was present in the house of Mati Debi on the Thursday evening, when she first alleged before the Sub-Inspector that her husband had gone with Sham Pal the previous day; Mahendra Katuria is, moreover, the very man who dictates to the Sub-Inspector the list of articles of jewellery said to have been stolen from the chest. Mahendra Katuria and Beni Doctor have throughout been helping the prosecution, and you noticed, during the examination of the witnesses, that the Government Pleader was being assisted by a pleader named Nani Gopal, who is a connection of Mahendra Katuria. This Mahendra Katuria, as well as Mahendra Nath Chakrabarti, though witnesses as important as Beni Doctor, have not been called, although one of them, Mahendra Chakrabarti, had been examined before the Committing Officer by the prosecution. Similarly Jagabandhu Ghosh, who played an important part in the case and was examined as an important witness before the Committing Officer, has been kept out of the witness-box, although the Government Pleader, in his opening, said he would call him. You, gentlemen,

are well aware of the disastrous results in a village in Bengal, arising from a combination among the villagers, and in this case it is evident that nearly all the *Satgopes* who belong to the same caste as the prisoner, headed by Mahendra Katuria, were arrayed against him for some reason or other. The very denial by some of the witnesses of the existence of any such combination, clearly goes to show their untruthfulness, and that they had a motive for the denial of the existence of this combination against the prisoner is a fact which even the Government Pleader has not seriously thought fit to dispute; but he asks you to find out why such a combination should exist if the prisoner is innocent. I am sure you will decline to adopt any such line of reasoning.

Finding of the tin boxes.

Some importance is attached by the prosecution to the finding of the two tin boxes, said to be among the contents of the chest, which were undoubtedly found by divers in the tank of the prisoner, close to the public road, on the 8th September, five days after the arrest of Sham Pal and the discovery of the corpse. It is scarcely necessary for me to point out that the finding of these tin boxes is no evidence whatever against the prisoner. These two boxes could easily be thrown into the water of the tank in the dead of night, if not by daylight, by any passer-by; and considering the nature of the boxes, and that there was nothing valuable inside them, the very finding of them, to my mind, after the tank had been searched once before, is strong evidence in the prisoner's favour, and not against him. If Sham Pal could remove all the valuable jewellery without any chance of detection, why should he have been so foolish as to throw these two

small tin boxes into his own tank for the purpose of creating evidence against himself? On the other hand, if persons were interested in creating evidence against Sham Pal, these worthless boxes would be just the sort of articles they would risk in order to do so, when they found that it was not a very easy matter to bury the corpse of Jadu Nath surreptitiously in the grounds of the prisoner. The Government Pleader in his opening told you that he would call the prisoner's son, Hira Lal, to prove that, under instructions from his father, he used to fire guns every night, and that his father had told him to do this lest some one should bury the corpse at night, and thereupon the Government Pleader very indignantly argued, in anticipation, why should such a direction have been given by the prisoner prior to the discovery of the corpse, unless he himself knew that the man had been killed? The trial is now ended, and again, for reasons best known to this fair prosecutor, he has not thought fit to call the son Hira Lal before you; and yet, nevertheless, he argues in his summing up, that, inasmuch as Hira Lal had told the police-officer that guns had been fired by him lest *anything* should be buried, this "anything" must have meant the corpse of Jadu Chatterjee! It must be plain to you that after the Police Sub-Inspector stated,—refreshing his memory from his records—that Hira Lal, through fear of the villagers, had been firing guns both before and after the discovery of the corpse, the Government Pleader thought it would be worse than useless to call this youth as a witness. After the discovery of the corpse, I suppose the Government Pleader did not mean to say that Hira Lal was afraid of the corpse being buried; but it is

Prisoner's son firing guns at night.

clear that by the word "*anything*," all that the prisoner and his son intended was some of the articles that had been stolen from Jadu Chatterjee's house, because that was a fact talked about in the village, and the prisoner and his son must have felt their own safety depended upon keeping watch at night and preventing the hostile villagers from manufacturing evidence against them. And I venture to assert that if this boy Hira Lal had not possessed the gun, and if he had not kept on firing it during the night, the corpse of Jadu Chatterjee would, in all human probability, have been discovered by the police buried in the garden of the prisoner, and the prisoner's fate would then have been sealed! I cannot help thinking, therefore, that to the foresight of this lad, Sham Pal practically owes his life. As for the theory of jackals, it is too ridiculous to be accepted; because if the corpse had really been buried for four or five nights at the spot where it was found, surrounded by dense jungle, no firing of guns from a distance could have prevented the jackals from unearthing the body.

The Witnesses.

I have yet to come to what I have termed the crucial point in the case, the point which, above all, indicates, to my mind, the complete innocence of the prisoner. But you will allow me to reserve that point to the last, and to make a few comments upon each of the principal witnesses examined by the prosecution, as it is important I should show you that not one of those witnesses, who prove anything against the prisoner, is entitled to the least credence. I will begin with witness No. 2—Pandu the servant. You have heard his evidence with attention, and I have already commented upon some portions

Pandu, Witness No. 2.

of it; but as regards his conduct in the witness-box, I wish to remind you of the artful manner in which he pretended to make out that the relations between him and his mistress are above suspicion. You, gentlemen, know perfectly well the feeling of veneration which even the very words "Father" and "Mother" give rise to in the Oriental mind. Pandu, from the very beginning of his evidence, pretended that he called Mati Debi his "Mother," and to keep up appearances he went the length of describing Jadu Chatterjee as his "Father," and Prasanna Chatterjee as his "Uncle." The object of his doing this must have been plain to you. In the Magistrate's Court he had been describing Jadu throughout as *karta* (governor) and Mati Debi as *ginni* (Mistress); but since he knows now what the prisoner has set up in his defence he has thought it right to drop those words, and to substitute for them "Father" and "Mother." This change was undoubtedly made with a view of creating an impression upon your minds; as in the event of his calling Mati Debi his mother, no Hindu jury would be likely to believe any human being to be so utterly depraved as to carry on an intrigue with a woman whom he dared to call his mother. You remember when I confronted him with his deposition before the Magistrate, he had the hardihood to say that he never had described Mati Debi as *ginni* (Mistress). His continued and officious use of the word "Mother," when referring to Mati Debi, must suggest the remark, "Methinks he protests too much," and I venture to say that this remark must have suggested itself to you when Pandu was in the witness-box. His whole conduct in the witness-box, and his unsuccessful attempts to make his evidence tally with the present

case for the prosecution, must convince you that not only is he a worthless witness, but that he could, if he chose to tell the truth, probably unfold the real story of Jadu Chatterjee's death.

Bhuti Dasi, Witness No. 3.

The witness Bhuti Dasi is called to prove that she had seen Jadu Nath and Sham Pal talking together on the road, on Wednesday at 2.30 or 3 P.M. This witness's evidence ought to be rejected as false, on the simple ground that she did not come out with this story for six days after the disappearance of Jadu Nath, although she was in the village from the Thursday till the discovery of the body. Considering the commotion there must have been in the village, and that everybody was asking everybody else as to when and where Jadu Chatterjee had last been seen, it is simply incredible that this witness should not have communicated her information, if true, the moment it came to her knowledge that Jadu Nath could not be found. She, moreover, denies that there had been any disagreement between the villagers and Sham Pal, and alleges that no one was displeased with him about Panchayet work! These answers clearly show that she is not a truthful witness.

Kebal Ram Mukerjee, Witness No. 4.

Kebal Ram Mukerjee is a lad who, like Bhuti Dasi, comes forward to swear that he had seen Jadu Chatterjee alone passing along the road northwards in front of his house, and that he had a bundle in his hands. The witness is a brother of Bhola Nath Mukerjee, who is one of those who joined in the petition against Sham Pal, and he has the hardihood to say that there was no party feeling in the village; that he had never heard of such

party feeling, or of any attempt to turn Sham Pal and Jadu Chatterjee out of the office of Panchayet. He was evidently introduced to the police as a witness by Mahendra Katuria himself, Beni Doctor being then present; and if his evidence be true it is inconceivable that he should not have mentioned the fact early on Thursday morning, when he admits inquiries were being made as to what had become of Jadu Chatterjee. He swears that the next morning when he went to Jadu Chatterjee's house to see the hole in the wall he heard nothing about the *tabij* (armlet), and further proves, what we allege, that the Sub-Inspector of Police arrived on Thursday at 3 or 3.30 P.M., and not after sunset as alleged by Mati Debi.

Khadan Bewa, witness No. 5, is, like Bhuti Dasi, a widow in the village, and she is called to prove that Jadu Chatterjee went into the house of Sham Pal on the Wednesday afternoon. She also makes the startling admission that she never gave out this fact to any one in the village until after the body was found. She says, "For five or six days before that, I knew that there was a commotion in the village as to what had become of Jadu Chatterjee, and that the police had come to inquire." This fact alone is sufficient to dispose of her evidence.

Khadan Bewa, Witness No. 5.

Witness No. 6, Nritya Bewa, is another widow, a neighbour of the prisoner, who is called to prove that she had seen the boy Gentu going into Sham Pal's house at about 8 A.M. on the Wednesday. Her story as to how she came to be made a witness is remarkable. She says, some ten days after the disappearance of Jadu Nath, a Babu, apparently a police-officer, asked her—"Did

Nritya Bewa, Witness No. 6.

any of Sham Pal's relations come to his house that day?" whereupon she said she had seen his daughter's son, Gentu, come. You are asked to believe that it was this answer which led to the discovery of the important witness, the boy Gentu, and the subsequent disclosure of the murder. She points out that police-officer as the Head Constable, Ram Charan Ghosh, who claims the credit of having found the witness. She had once before been examined by the same police-officer, when she said nothing about having seen Gentu. She contradicts her statement before the police and says that it was not until after the police-officer had been with her for two hours that she communicated to him this important piece of information. Her evidence really does not touch the case, if the story told by Gentu is disbelieved.

Gentu, Witness No. 7.

The seventh witness is the boy Gentu himself. I have already dwelt upon the important points in his story, with which I need not trouble you any further. He was evidently tutored some time after the corpse had been discovered, when it was thought necessary to mislead the Magistrate by producing, not only an eye-witness, but a near relative of the prisoner. It is clear from the boy's evidence that the witness Pandu had something to do with bringing him forward as a witness. The whole story regarding the boy having heard the *hû hû* sound, and climbing up the wall and seeing the murder committed, is too ridiculous to be believed. Since the death of the boy's mother he belongs to the party of Jagabandhu Ghosh, who is at feud with the prisoner and whose son has married the boy's sister.

The next witness is Beni Doctor, and I have already

had occasion to comment upon his evidence. He did not tell the Magistrate the story which he now tells of the first accusation of Sham Pal by Mati Debi, and he is contradicted by the Panchayet's report which he was himself instrumental in sending. He admits that there had been litigation between Mahendra Katuria and Sham Pal, and further, that Mahendra Katuria as well as he, himself, gave evidence against Sham Pal in the criminal case pending on the 29th of August at Howrah. He has no doubt denied the truth of several important facts alleged by us, but it will be for you to judge whether his denial ought to be accepted as conclusive on the points.

Beni Doctor, Witness No. 8.

The ninth witness is the other boy, Gaur Hari, and I have said quite enough about him already.

Gaur Hari, Witness No. 9.

Witness No. 10 is the gentleman who made the plan, and his evidence calls for no comment.

Witness No. 10.

Witness No. 11, Bindu Bewa, is the grandmother of the boy Gentu, and she is theatrically called to prove what the boy on his return home had told her. Her story about the boy suddenly crying for *tal* and *amra* fruits carries with it its own refutation, and the theatrical manner in which she wants you to believe that she did not tell the whole truth before the police, because Sham Pal was the husband of her deceased daughter, must convince you of the fact that she is also a tutored witness. She is in the habit of visiting Jagabandhu Ghosh, one of the witnesses for the prosecution, who gave evidence against Sham Pal, but whose evidence the Govern-

Bindu Bewa, Witness, No. 11.

ment Pleader has thought fit to withhold during this trial.

Kali Pada Pal, Witness No. 12.

Kali Pada Pal is called to prove that he also had seen the boy Gentu going towards Sham Pal's house on the Wednesday at 8.30 or 9 o'clock. He did not speak to the boy, whom he met casually, and he did not see any person on the road. He, however, admits that there is a party feeling in the village, but he has the hardihood to say that Sham Pal has no enemies in the village, and that "Mahendra Katuria and others are fond of Sham Pal!"

Sri Krishna Ghosh, Witness No. 13.

The next witness, Sri Krishna Ghosh, a jeweller, is called to prove how the boy Gentu was brought and taken to the Police Station for examination. In cross-examination I think I made clear that he belongs to the opposite faction, and that the prisoner had been involved in litigation with the witness's uncle. He fenced considerably about the signatures of his brothers in the petition (*Ex.* 1), but finally admitted that the signatures are like theirs.

Shama Debi, Witness No. 14.

Shama Debi, the mother of Mati Debi, I pass by for the present for a reason I will explain hereafter.

Pocha Bau and Lakhi, Witnesses Nos. 15 and 16.

I similarly reserve for the present witnesses No. 15 and No. 16.

Mahendra Patra, Witness No. 17.

Passing over the medical evidence, on which I have already commented, I come to the evidence of Mahendra Patra, witness No. 17. This witness is called to prove how one of the two women, Lakhi, who communicated the important information regarding the whereabouts

of the corpse, herself came to be discovered. It is obvious from the police records that the witness made three different statements on three different occasions, on the 20th of September, that is, seventeen days after the discovery of the corpse, regarding the time when Pandu had come to him on the 3rd September to inquire about the woman Lakhi. The story told by him that Pandu suddenly came to his shop and put him this question :—"Who is the woman from Satghara who came here to buy things?" and that, thereupon, he replied: "One Lakhi Naptini buys things," is too preposterous to be accepted, as if from the village of Satghara only one woman had ever bought things from his shop, and that she happened to be the identical woman of whom Pandu was in need. On his own admission, he is a convicted thief, and he is evidently a witness brought for the occasion to support the wonderful story of the discovery of the corpse, to which I will come later.

Basant Kumar Mookerjee is called to prove the discovery of the red cloth of Jadu Chatterjee, in the jungle where Jadu Nath's corpse had been discovered the day before. This evidence is of no importance whatever, and I have little doubt that the *namabali*, or red cloth, was placed in the jungle after the discovery of the body.

Basant Kumar Mookerjee, Witness No. 18.

Witness No. 20 is the brother of Mati Debi, and I have already alluded to him, and it is sufficient for me to say, that the character of this witness may be well gathered from the reluctance he displayed in identifying the handwriting of his deceased brother-in-law in an apparently innocent letter, which the prisoner has put in. That

Akhoy Kumar Banerjee, Witness No. 20.

incident shows how determined some of the witnesses for the prosecution are not to admit the handwriting of Jadu Chatterjee, lest it should in any way help the prisoner in his defence.

Witnesses Nos. 21 and 22.

Witnesses Nos. 21 and 22 are divers, whose evidence I have already disposed of in connection with the tin boxes.

Rasik Lal Bose, Witness No. 23.

I now come to a very important witness—the Sub-Inspector of Police who first investigated the case. The Government Pleader has told you, he called this witness because he was compelled to do so. I can see no sort of compulsion on his part. If he did not think this was a necessary witness he need not have called him. He has further asked you to disbelieve his own witness, because the man's evidence is not exactly what he would have liked. He has flourished the fact that the witness is under suspension by reason of his conduct in connection with this case. Now, I have always considered, that it is a public misfortune in this country that the executive authorities are constantly in the habit of pre-judging cases before they are tried in court, and dispensing favours and punishments accordingly. It is notorious, that before a case has been judicially tried, police-officers are rewarded or punished according to the opinions which the higher executive authorities may form of the case. The result of this course of action is to bring the executive into conflict with the judiciary, and thereby, sometimes, the whole administration into disrepute and contempt. It is lamentable, therefore, that before you, gentlemen, are called upon by law to decide whether this accusation be true or false, the police authorities should have suspended this Sub-Inspector,

and thereby given the Government Pleader a handle to enable him to ask you not to believe his evidence on that ground. Much of the evidence this witness gives is of a formal character, but he proves the correctness of the documents on which we rely. He tells us that, on the 30th August, he was an utter stranger to Sham Pal, whom he only knew by name as Panchayet of the village. The Government Pleader charges this officer with neglect of duty, and with having deliberately made false records in order to screen the prisoner. Such a charge ought not to have been made without sufficient grounds, and not simply because the exigencies of the case required such a grave accusation to be brought against a public servant. According to the whole evidence, this police-officer was engaged in writing out the statement of Mati Debi and the list of the articles till near midnight, on Thursday 30th August, during which time he was practically surrounded by several of the villagers who are on the side of the prosecution. No good result could have been expected from a search of Sham Pal's house during a late hour of the night, and accordingly, the very first thing the police-officer does the next morning, is to make a careful search of Sham Pal's house, garden and tank, and also to record the statement of Sham Pal himself which you have heard read. The prosecution challenges the correctness of the record of Mati Debi's evidence on Thursday evening, and the Government Pleader argues that it was in the highest degree improbable that Mati Debi should have made all the statements she is recorded to have made at that time. In the first place, it is impossible to conceive what motive this police-officer could have had in

deliberately making a false record. Bribery can hardly be imputed, as, in the first place, Sham Pal is admittedly a poor man, and secondly, the police-officer remained surrounded by Sham Pal's adversaries the whole time. Besides, do you think it possible for one moment that the police-officer, who was writing Mati Debi's statement in the presence of Mahendra Katuria, Beni Doctor, and other villagers, could have deliberately mis-written what was being said, well knowing that the fraud would be discovered very soon, if not immediately? Of course Mati Debi pretends that this writing was read out to her just as the villagers left, in order to render it probable that the writer had not correctly recorded the statement; but there is one important fact which will satisfy you that the record of the statement must be strictly correct. Mati Debi admits that she had engaged a pleader before the Committing Magistrate, and yet the correctness of the statement had never been impeached or doubted until I happened to cross-examine her in this Court. Do you think it possible that the police-officer would not have been denounced long before the trial, if he had drawn up an incorrect record on the 30th August of what Mati Debi said? You will also not omit in this connection to weigh the internal evidence furnished by the document (*Ex. A*) itself. Had the police-officer been anxious to manufacture a statement in order to help Sham Pal, would he have recorded the accusation against Sham Pal made by Mati Debi, namely, that Sham Pal went out of the house with her husband and the *tabij* (armlet)—a statement on which the whole of the present case is founded? As for the statements regarding her relationship with her husband, I am sure you will come to the

conclusion, from the whole evidence, that those statements were really made, and that the police-officer could not have possibly drawn upon his imagination for statements the truth of which is now beyond all question. The internal evidence furnished by that record clearly shows that the Sub-Inspector, though he honestly recorded the accusation against the prisoner, as then made, found it difficult to accept it implicitly as true, but went on questioning the woman regarding her own relations with her husband, and also regarding the character of Pandu. The witness distinctly tells us that before he commenced to write Mati Debi's statement, nobody had said anything to him about Sham Pal having taken Jadu Chatterjee away about a *tabij*, and we have the witness's statement, supported by that of Kebal Ram Mukerjee, that he had arrived in the house of Jadu Chatterjee three hours before that. He proves that the search of Sham Pal's house, tank, and garden led to no results, and that it was not until the afternoon of Monday, the 3rd September, that he received information from Mati Debi herself that the two women, who like Macbeth's witches had suddenly disappeared, had imparted important information regarding the whereabouts of the corpse, and that this information the witness afterwards found to be correct. What he says about the discovery of the body I will dwell upon hereafter. But I must not omit to point out that it was exceedingly unfortunate that the Sub-Inspector of Police should have been checked in the course of his investigation, and that the higher police authorities should, on the discovery of the corpse, practically have made over the case to another set of police-officers, namely, Inspector Samuells and his Head Constable,

Ram Charan Ghosh, who, in order to acquire distinction, readily threw themselves into the arms of Pandu and the villagers, and supported their accusation against the prisoner. If the Sub-Inspector, Rasik Lal Bose, had failed to do his duty, why did the Government Pleader refuse to call the Inspector himself, who was present on the spot with the Sub-Inspector, or the Head Constable, Ram Charan Ghosh, who plays so important a part in finding out the witnesses?

Defence of the Prisoner.

Having disposed of all the eye-witnesses in the case except those whom I have reserved to the last, I wish to make a few remarks regarding the defence made by the prisoner. From the very first, namely, from the arrival of the Sub-Inspector in the village, he has never concealed the fact that he went to see Jadu Chatterjee in his house at two o'clock on the Wednesday afternoon, the 29th August. He has also told you what passed between him on the one hand, and Jadu Nath and Pandu on the other. His statement, as recorded by the Sub-Inspector (*Ex. P*), has been put in as evidence, as well as his examinations on different occasions before the Committing Magistrate. His case all along has been, that the last time he saw Jadu Nath Chatterjee was in his house on Wednesday afternoon, and that he knows nothing of what happened to him after that. The Government Pleader asks you to draw an adverse inference against the accused from his statement (*Ex. P*), made at 6 A.M. on the 31st August, in which he described Jadu Nath Chatterjee, when he first saw him, as engaged in chewing *pan* (betel-leaf) and as blowing into the fire-holder of his tobacco-pipe. This is the natural description which you would expect any man to give of a Bengali in the

position of Jadu Nath Chatterjee, just after he had finished his mid-day meal; but, says the Government Pleader, why should the accused have mentioned the fact that the man was chewing *pan* unless his own conscience had suggested to him that he had poisoned the deceased by means of a *pan?* I never heard a more ridiculous argument advanced in a Court of Justice. I can only say that if his conscience were guilty, that would probably be the last description he would volunteer regarding the deceased, Jadu Nath Chatterjee. It is true that I have not thought fit to call any witnesses on behalf of the defence, but what witnesses could the prisoner have called who would have proved his innocence better than the witnesses for the prosecution have done? The Committing Magistrate seems to have asked a good many questions of the prisoner which, to my mind, have no material bearing on the case. The witnesses for the prosecution had not been cross-examined in the Lower Court, and I can well understand the Magistrate being led away by their evidence and questioning the accused minutely regarding his means of livelihood. But this point has, after all, no real bearing on the case.

Gentlemen of the Jury, I feel that I ought no longer to keep you in suspense, and I must now dwell upon that point which all along I have considered to be the crucial point in the case, and which has enabled me, at any rate, to come to the conclusion that not only is the whole evidence for the prosecution entirely false, but that the prisoner is innocent of the crime with which he is charged. This point relates to the discovery of the corpse on the afternoon of Monday the 3rd September. I regard it as the crucial

The crucial point.

point in the case to ascertain from what source the information came which led to the discovery. The murderer himself, whoever he may be, must be primarily responsible for that information. It is an admitted fact in the case, that after six days' fruitless search, the police-officers in the village obtained the clue which led to the discovery of the corpse *from Mati Debi herself.* Let us examine a little more closely the story told by Mati Debi and her mother, Shama Sundari. That story is, that on the afternoon of that Monday, between four and five o'clock, while the police-officers were engaged in an adjoining room, two strange women suddenly and mysteriously appeared before the mother, Shama Sundari, described to her the spot where the corpse was to be found, and then as suddenly and mysteriously disappeared! Pandu, who was then with the police, professes to have caught a glimpse of the two women as they vanished, and pretends that it then struck him that one of the two women was the identical person whom, on a previous occasion, he had seen in Mahendra Patra's shop making purchases, but whose name, or residence, he had no conception of. The mother communicates this information to her daughter, Mati Debi, who immediately hands it on to the Police Sub-Inspector and Inspector in the house, and the police are told that these two mysterious women, like Macbeth's witches, had disappeared. The police, on receiving this mysterious communication, proceeded to the jungle indicated, and before they had searched there many minutes, two of the villagers shouted out: "We have found it." The place was a drain surrounded with jungle, and the grave was covered with some kind of shrubs exactly as had been indicated by the witches. On digging a few inches

below the surface, the body of Jadu Chatterjee, in a decomposed state, was discovered. The jungle in question is about 250 feet from the doorway of the prisoner's house, and separated from it by a public road. This discovery of the corpse was regarded, by the villagers, as conclusive of the prisoner's guilt, and he was arrested the same evening on his return from Howrah, where he had gone to answer the charge against him then pending before the Deputy Magistrate. The evidence is that the police-officer told Mati Debi that unless these mysterious witches were found, the discovery of the corpse, under the circumstances, would go very much against her. That evening the women are not found, but the next day, at eleven o'clock, Pandu succeeds in bringing to life one of these witches, and she is the witness Lakhi Naptini. Pandu professes to have discovered her through the assistance of the witness Mahendra Patra, the shopkeeper to whom he had gone on the afternoon of the 3rd September, the day on which the corpse was discovered, and he, on being questioned as to who was the woman who had purchased articles from his shop, gives Pandu the address of Lakhi. The story now is, that this woman Lakhi, accompanied by a young widow, named Pocha Bau, had called, as alleged, on the mother, and had imparted to her the important information regarding the whereabouts of the corpse. I have no hesitation in asking you entirely to reject this visit of the women, and the communication alleged to have been made by them. But let us examine this remarkable story a little more closely. The woman Lakhi, on being examined by the police as to how she had come to be in possession of such accurate information regarding the

whereabouts of the corpse, gives a marvellous explanation, and it is the absurdity of this explanation which, to my mind, is conclusive of the prisoner's innocence. That explanation is, that a few days after the disappearance of Jadu Nath Chatterjee, she was walking through the streets on a dark evening, and that then she overheard the conversation of two strangers passing along the road, one of whom was saying to the other, "I have committed a bad act; I have killed a Brahmin and buried him." According to her first statement before the police, his comrade thereupon asks him the question: "Have you simply buried him, or have you planted some plants over the grave?" and then the first speaker replied: "I have planted *kachu* plants on the grave, so that no one may be able to suspect." The woman Lakhi now tells us that she recognized these two men who were so conversing, one of whom—the man who had described himself as the murderer—was Sham Pal himself. Gentlemen, if it be possible for any reasonable man to believe this story, it must be possible to find the prisoner guilty; but it would be an insult to your understanding, I presume, for me to point out that no sane person can for a moment conceive of the possibility of Sham Pal volunteering, in the public streets, this information in that way to a man not an accomplice, at a time when the police were in the village, and when the villagers were in a state of great excitement about the disappearance of Jadu Chatterjee. It is not enough for us merely to dismiss this story as ridiculous and false, but we are bound to go a step further, and to consider who is responsible for, and what is the legitimate inference to be drawn from, the falsity of this piece of evidence.

To an astute and competent detective this incident alone would have furnished the means for tracing out the real criminal; but our police authorities in Bengal are not so much concerned with the detection of crime as the credit to be gained by the conviction of some victim, whether innocent or guilty. For this purpose the poorer and more helpless and defenceless the prisoner, the better for our police. Returning to the facts, the only inference must be, either that the place where the corpse had been buried—in all probability on the night of the 2nd September—was known to Mati Debi and Pandu, and that these two witnesses (Lakhi and Pocha) were manufactured when the police pointed out the necessity of discovering them; or, if you believe in the visit of these two women on the afternoon of the 3rd to the house of Jadu Chatterjee, then the account put into the mouth of Lakhi regarding the conversation between two passers-by which she overheard, must have been put into her mouth by persons hostile to the prisoner, and this conclusion becomes irresistible when you remember that the other man, Sham Pal's companion in the public streets, is now alleged to be his fellow Panchayet, Nibaran Chakrabarti, both of whom were being jointly prosecuted at the time by the villagers of Bakshara. At all events, if this story is rejected, as it must be, the fact remains that Mati Debi and Pandu are primarily responsible for the information which led to the discovery of the corpse, and that they have invented a false story in order to account for their having possessed that information. It would under the circumstances be incumbent upon Mati Debi and Pandu to account satisfactorily for the possession of that information. They have failed to do so. What, gentlemen, is

the inference you ought to draw from this, at least so far as the prisoner at the bar is concerned ? The only inference I can draw is that the information in no way emanated from the prisoner, and for reasons best known to the murderers they did not think fit to help the police to find out the corpse until the evening of the 3rd September. It is needless for me to point out the palpable lies which these two women Lakhi and Pocha have told, as the Government Pleader himself did not even seriously ask you to rely upon their evidence; but from the very beginning I felt that he could not shirk the responsibility of calling these two witnesses, and I therefore, even before they were called, elicited in cross-examination statements which ordinarily would not be admissible as against my client. This, gentlemen, as I have said, is the crucial point in the whole case, and it struck me as being so as soon as I read the uncross-examined evidence given before the Committing Officer, and before I undertook the defence of the prisoner. It is a source of great satisfaction to me to feel that such a circumstance exists in the evidence adduced in the case.

The Judge's opinion.

Gentlemen, there is one other matter to which it is my duty to allude before I sit down. The Government Pleader has asked you to disregard the opinions of the presiding Judge in the case, on the ground that you, being people of the country, are far more competent to arrive at a just conclusion than a foreigner like the Judge. I do not for a moment question the fact that on matters affecting the usage and ideas of the people, your opinions and experience are entitled to far greater weight than those of any English Judge. But, at the same time, you must

remember, that the Judge, though a foreigner, has spent the best part of his life in sifting the testimony of witnesses in this country; he has moreover had the advantage, which I am sure you readily acknowledge you can not possess, of having been trained in the art of sifting evidence, and I am sure you will not misunderstand me when I say that during a somewhat long experience at the bar I have found that the Judges who ordinarily preside in our Mofussil Courts, are, as a body, animated by the sole desire of seeing justice done to those who are tried by them. We have lately heard a good deal regarding the failings of judicial officers who are members of the Indian Civil Service; but believe me when I say, that the wonder to me always has been, not that these Englishmen acting as Judges occasionally go wrong; but that, having regard to the enormous difficulties on the part of foreigners to elicit truth in this country, they are so often right. I think we are all bound to acknowledge that our Sessions Judges, as a body, though foreigners, show a remarkable capacity for getting at the truth out of a mass of perjured testimony. I trust, therefore, that, if the learned Judge should feel called upon to express any opinion upon any question of fact, you will attach to that opinion every legitimate weight, and not disregard it simply because the Government Pleader asks you to do so. I have no right to know what opinion the learned Judge has formed of the case; but I can safely assume that he has only formed that opinion which the evidence and the probabilities warrant, and should he think fit to express that opinion, I am sure you will not be doing your duty if you were to set it aside without the gravest possible reason. But for the importance which the

people of Howrah have attached to the case, and the excitement it has caused, I should not have considered it necessary to address you at such great length. I cannot, however, conclude without thanking you for the patience with which you have listened to me, and without expressing a hope that your verdict will be one which is not only strictly warranted by the justice of the case, but which may ultimately lead to the detection and punishment of those who are really responsible for so diabolical a crime.

THE JUDGE'S CHARGE TO THE JURY

GENTLEMEN OF THE JURY :—

The accused, Shama Charan Pal, is charged under Section 302, I. P. C., with having committed murder on the 14th Bhadra last by causing the death of Jadu Nath Chatterjee.

The case against the accused, as offered by the prosecution, is briefly as follows :—On Wednesday, the 14th Bhadra[1] last, at 2 P.M., the accused is said to have gone to the house of Jadu Nath Chatterjee, and to have told him that he had found a purchaser for an ornament (a *tabij*) which he (accused) had previously pledged with Jadu Nath, and asked Jadu Nath to come with him to his house. Jadu Nath Chatterjee went off with the accused, and the suggestion made by the prosecution is that he was afterwards drugged by the accused by morphia mixed with betel, and murdered. That night the house of Jadu Nath Chatterjee, in which his wife with her niece and servant were sleeping, was broken into and the heavy wooden chest in Jadu Nath's bedroom, which is said to have contained jewellery which had been pledged with Jadu Nath, was rifled. Six days afterwards, *i. e.* on the following Monday, the body of Jadu Nath Chatterjee is said to have been discovered

[1] 29th August 1894.

buried in some jungle 260 feet or so distant from the house of the accused, and two tin boxes, one containing weights and measures, are said to have been discovered by divers in the tank adjoining accused's house. These boxes are said to have been stolen from the chest in the house of Jadu Nath Chatterjee that Wednesday night. It is admitted that Jadu Nath Chatterjee was a friend of the accused; the defence would say his only friend in the village. The case for the prosecution is that the accused drugged and murdered his friend for the purpose of being able afterwards to rob his house, and the motive for this crime is said to have been simply greed. Four or five days before that Wednesday, the accused is said to have gone to the house of Jadu Nath Chatterjee and to have then seen the wooden chest opened, and it is suggested that he then became aware of the value of its contents. Jadu Nath Chatterjee, as you have heard, used to lend money on articles pledged and on mortgages of land, while accused is said to have been in an impecunious state.

The defence do not admit the truth of any part of the story for the prosecution, and the case set forward on behalf of the accused is, that even if it be admitted that the house of Jadu Nath Chatterjee was broken into and robbed, and that Jadu Nath Chatterjee was murdered (facts which, however, the accused does not admit), the whole evidence connecting the accused with the offence is false, and the whole case for the prosecution has been trumped up by accused's enemies.

Now, as you are aware, it is for the prosecution to prove their case, and it will be for you to say whether the evidence adduced satisfies you of the guilt of the accused. I shall explain to you the law, and it will be

your duty to decide which view of the facts is true, and then to return the verdict which, under such view, ought, according to my directions, to be returned. (S. 229, C. P. C., explained.)

Before you can be satisfied of the guilt of the accused of the crime of murder with which he is charged, the following facts against the accused must be proved :—

(1) That Jadu Nath Chatterjee is actually dead, *i. e.* that the body found was his body.

(2) That his death was due to violence or unnatural causes and not the result of natural causes.

(3) That the accused was the person who did the act which caused the death of Jadu Nath Chatterjee.

(4) That when doing the act the accused had the following intention or knowledge :—

(*a*) The intention of causing his death.

(*b*) The intention of causing such bodily injury as the accused knew to be likely to cause death.

(*c*) The intention of causing such bodily injury as, in the ordinary course of nature, would be sufficient to cause death.

(*d*) Or knew that the act was so imminently dangerous that it must, in all probability, cause his death, or such bodily injury as is likely to cause his death, and committed that act without any excuse for running the risk.

In this case, as the defence is an entire denial of the truth of the evidence as against the accused, no exceptional facts are suggested to mitigate the gravity of the offence or reduce it from the crime of murder. If you find that Jadu Nath Chatterjee is dead, that his death was due to morphia given to him by the accused to take, and to his having been strangled by the

accused, or to one of these causes, it will be for you to say whether in causing the death of Jadu Nath the accused could have had any intention other than one of those above described; and if he had not, you will find him guilty of murder. If you find that all the facts are not proved against the accused, then you will find him not guilty.

This case is one which is said to have excited some local interest, owing to the fact that the man who is said to have been murdered is a Brahmin. I trust, however, that you will not allow that fact in any way to influence or affect you in returning your verdict. You will, I hope and believe, realize that it is your duty to come to your conclusions only on the evidence which has been laid before you; and if you have heard or read anything of the case out of court, you will disregard it, and not allow your minds in any way to be influenced by it.

The first fact, as I have pointed out to you, of which you will have to be satisfied is, that Jadu Nath Chatterjee is dead. The evidence, which the prosecution has adduced, is to the effect that Jadu Nath Chatterjee left his house in the afternoon of Wednesday, the 14th Bhadra, that he did not return home again that day or night, and that since then he has not been seen alive. You have next heard that on Monday, six days afterwards, a body was found buried in a jungle near a tank. The body was dug up, and was found to be much decomposed. Jadu Nath's widow has told you that she recognized the body to be that of her husband, because the toes were bent from wearing *kharam*, and also from its general appearance. The bent toes seem, however, to have been the most distinguishing feature which enabled her to identify the body.

Beni Chatterjee and Akhoy Kumar Banerjee, who also saw the body after its discovery, say they identified it as the body of Jadu Nath Chatterjee mainly by the bent toes. The body was much decomposed, the face swollen, and the hair partly off. It will be for you to decide whether, in your opinion, the body has been satisfactorily identified by the witnesses by the peculiarities which they have noticed, or whether or not they had other means of knowing the body to be that of Jadu Chatterjee I cannot say; but, at all events, it will be for you first to decide if the identification of the body as that of Jadu Nath Chatterjee is satisfactory.

If you find that the body was the body of Jadu Nath Chatterjee, then comes the all-important point for your decision—what was the cause of death? Now, the theory of the prosecution is that Jadu Nath Chatterjee was enticed to the house of accused, drugged with morphia mixed with betel, and then strangled. The medical evidence on which generally it is best to rely on the question of the cause of death fails in this case to give you any *definite* information. The Civil Surgeon, who conducted the *post-mortem* examination, has told you that the body which was brought to him was in too decomposed a state to enable him to give any opinion at all as to the cause of death. Beyond a superficial wound on the head, which may have been caused after or before death, there were no external marks, and there was nothing in the condition of the tissues of the corpse to indicate that death was due to strangulation. He says that "in severe strangulation where much force had been used, one would expect to find the windpipe reddened, and perhaps an effusion of blood. In this case, though the mucus membrane of the larynx was red, it

was impossible to arrive at any conclusion owing to decomposition which had softened it."

The next important evidence as to the cause of death is the report of the Chemical Analyst to Government of the stomach and parts of the viscera of the deceased which were sent to him for chemical analysis. He has reported that traces of morphia were found in the portion of human viscera. It seems from his supplementary report that he could not estimate the quantity of morphia, and he says that in certain cases a grain of morphia may cause death. Taken as a whole, his report would seem to amount to this:—The deceased had taken morphia before his death, and the results of the chemical analysis leave it an open question whether death was the result of the ingestion of morphia or not. They were consistent with what might have been found in cases where morphia was the cause of death.

The question then for you to decide is a very difficult one. The boy Gentu's evidence which points to the accused having strangled Jadu Chatterjee (which I will deal with later on) has not in this case the support of the medical evidence. So that unless you feel that you can place implicit reliance on the evidence of the boy, I should think you would hesitate before you held that the death of Jadu Nath Chatterjee was due to strangulation.

If you are satisfied that the deceased died from morphia poisoning, then the very much more important point for decision will arise as to who (if anybody other than himself) administered the morphia to him.

However, on the evidence before you, it will be for you to be satisfied that the death of the deceased was due to violence or unnatural causes. I can only tell you

that apart from the evidence of the boy Gentu, the medical evidence only goes so far as to raise a suspicion of death by unnatural causes.

Passing to the next point, viz. :—"Was the accused the person who did the act which caused the death of Jadu Nath Chatterjee?" On this point, of course, the evidence of the boy Gentu is all material. It is also necessary to consider the other evidence for the prosecution adduced to prove accused's complicity with the alleged murder. This evidence may be divided as follows:—There is first the evidence of Mati Debi and Pandu to prove that accused came to the house of Jadu Chatterjee on the Wednesday (he is said to have disappeared at 2 or 2.30 P.M.), and of Bhuti Dasi, Kabal Ram Mookerjee, and Khadan Bewa to prove that Jadu Chatterjee afterwards went to the house of the accused. The two first-named, as well as Beni Madhab Chatterjee (generally described as Beni Doctor) and Akhoy Kumar Banerjee, brother-in-law of Jadu Chatterjee, are called to prove the burglary on the same night. Next, there is Gentu, whose proper name is Manmatha Nath Ghosh, grandson of accused, who says that he saw a Brahmin wearing a red *namabali* cloth in the house of his grandfather that Wednesday; that he saw his grandfather and the Brahmin in the yard struggling, his grandfather having hold of the Brahmin by the neck, and that he saw his grandfather let go and the Brahmin fall. He afterwards saw the legs of a man covered with a cloth under the archway of the staircase. He in fact is called to prove that the accused actually murdered Jadu Chatterjee; and Gaur Hari, his playmate that day, is called to corroborate him, while Nritya Bewa and Kali Pada Pal are called to prove that they saw Gentu go to

the house of the accused that day at 8 or 9 A.M. and leave at 4 or 5 P.M. Bindu Bewa, the boy's grandmother (mother of his father), is also called to prove that the boy, after his return home that Wednesday, told her that he had seen his grandfather, accused, kill a Brahmin.

Then there is the evidence to show the body was discovered. Lakhi Naptini, who says that in the evening, two days after the murder, she was going along the main road after dusk, and saw a man, whom she recognized as the accused, with another, and overheard accused say to the other that he had murdered a Brahmin, and concealed the body in a jungle and buried it under *kachu* plants. Pocha Bewa, to whom Lakhi is said afterwards to have told this, and who went with her on the Monday, six days after the alleged disappearance of Jadu Chatterjee, and told Shama Debi, the mother of Mati Debi, all about what Lakhi had overheard. Mahendra Patra and Pandu, to prove how these two women were afterwards discovered, and the evidence to prove the discovery of the body buried in the jungle 670 feet from the house of the deceased, and 260 feet from the house of the accused. There is the evidence to prove the identification of the body, which I have already dealt with, and there is the medical evidence to show what was the cause of death.

Now, before considering the evidence, you must first look at the position of accused and deceased towards each other as elicited by the cross-examination. Both had been Panchayets of the village. Both, with others of the Panchayet, had been complained against by the villagers in a joint petition, dated March 16, 1894, and after that petition the deceased had relinquished his

post as Panchayet. One Bhuban Ghosh brought a complaint in the Criminal Court against the accused and Nibaran Chakravarti, charging them with illegal attachment of property. One of the days fixed for the trial of that case was the Tuesday, *i. e.* the day before the murder. Jadu Chatterjee came in that day to Howrah, and assisted accused in defending his case, and tried to get the case compromised. The case for the prosecution is, that the very next day accused murdered and robbed his friend. The Counsel for the defence says the story is preposterous on the face of it; that no man could have committed such an inhuman crime. I confess that to me it seems highly improbable, but as truth is sometimes stranger than fiction, it will be for you to say whether you believe that this story is true, or whether you consider that this initial improbability throws serious doubts on the truth of the rest of the case.

As to the first batch of witnesses who say that accused went to Jadu Chatterjee's house that day to get him to bring away a *tabij* which accused wanted to sell; accused, as you have heard, admits that he went to Jadu Chatterjee's house that day; but he says he went for an entirely different object. He went to question Pandu to ascertain whether from the books of Apcar and Co.'s office he (the accused) could not get evidence which would prove that one of the witnesses against him—viz. Hari Pan—in that case had given false evidence. Pandu admits that he was questioned by the accused on that point that day. It is for you to decide whether the story of the taking of the *tabij* to sell is or is not an interpolation. In the first place, you will consider whether you think it probable that if accused

had contemplated such an offence, he would have gone and in open daylight enticed Jadu Chatterjee to his house; and next, if he had done so, whether it is probable that this fact would not have been mentioned as a most important fact in the report of the offence sent to the police by the Panchayet on the morning after the commission of the alleged offence, and also by Pandu, who went to lodge information? It was not so mentioned, nor was anything said about it till the evening of that day when the police had arrived to inquire. Does this omission throw a doubt on the truth of the story? At all events it is a fact that you must bear in mind. Bhuti Dasi says she saw accused and Jadu Chatterjee outside Abinash Mukerjee's house that Wednesday at 2 or 2.30 P.M. Kebal Ram Mukerjee saw Jadu Chatterjee going northwards about the same hour, and Khadan Bewa saw him go into the accused's house about 3.30 or 4 P.M. that afternoon.

Now in this case the question of time is important. In this Court all the witnesses say, except Khadan, that Jadu Chatterjee went to accused's house at 2 or 2.30 or 3 P.M., while in the first information, and in the evidence of Khadan, it is stated that he went at about 4 P.M. It will be for you to say whether this is a material discrepancy, and whether it indicates that the prosecution have been trying to improve their case. You must remember that the medical evidence goes to prove, from the condition of the undigested rice in the stomach of the deceased, that his death took place from half-an-hour to one and a half hours after he had a meal. It will be for you to judge and to decide whether the interval between the time when Jadu Chatterjee had his midday meal, and the time when he went to

accused's house (if he ever went there at all), was or was not too great to admit of his having died after that midday meal. In fact whether it does not go to show that he died after another meal; and on this point you will remember the remark which slipped from Mati in cross-examination, that Jadu Chatterjee's meal that night was rice. She corrected herself, as you know, and said that rice was the meal prepared for him. It is for you to decide whether the remark meant nothing, or whether it meant a good deal coupled with the confusion as to the time when Jadu Chatterjee is said to have gone to the accused's house. Absolute accuracy in time is not to be expected from witnesses in this country, but in this case you have to determine whether there has been an involuntary mistake or an intentional alteration in the time. The former would not affect the case. The latter, I must tell you, would go very far towards establishing the innocence rather than the guilt of the accused.

The witnesses to prove that Jadu Chatterjee went to accused's house have been cross-examined at length to prove bias. You have heard that they have denied all hostility to the accused, though some have admitted that they were joint signatories to the petition against him. It will be for you to decide whether these are witnesses on whom you can rely, and if they prove that Jadu Chatterjee went to the accused's house that day.

If satisfied that Jadu Chatterjee went to the accused's house, you have then to consider whether you can believe the evidence as to what happened when he was there. The boy Gentu alone deposes to this. You have seen the boy and have noticed his age, about eight years, and his demeanour. It has not been possible to

test his evidence with that of any other witness, for I do not think that you can help regarding the evidence of the other boy, Gaur Hari, as quite worthless. You will have to decide whether you think this story of Gentu appears to be a probable and true story, told spontaneously, or whether you think he has said what he has been told to say. In this case you must have noticed that the important facts connecting accused with the alleged crime are deposed to by boys and women. You will have to consider whether this is a mere accident, or whether you think that it shows that their story is not true, and that they have been selected for the task as more likely to escape punishment afterwards if found to have given false evidence.

Taking again the first batch of witnesses: It has been elicited that Mati Debi has made statements before this Court at variance with those made by her previously to the police. The Government Pleader has suggested to you that she is a person on whom you may place perfect reliance, and that it is quite probable that she did not make to the police those statements as to her relationship with her husband which she now denies. The Counsel for the defence, on the other hand, would insist that she did make those statements, and that her denial before this Court only shows that her evidence cannot be relied on. Similarly it is urged with regard to the other witnesses. It will be for you to determine whether you can believe the story of these witnesses, and whether you can believe that Jadu Chatterjee went to Sham Pal's house with the *tabij* as alleged.

Then as to the second batch of witnesses, including the boy Gentu, I have already drawn your attention

to the age of the boy, and, in cases like this, where children are produced to give evidence, you should, I must tell you, duly take into consideration whether they are acting under influence, or whether they are telling merely a tale which they have been told to tell.

In the first instance, you should consider whether the boy's tale is a probable one. He says, he went to Sham Pal's house to get some fruit that day. He went in the morning, and did not return till the afternoon. Yet you find that he did nothing to get the fruit till just as he was leaving. Is this probable? It is said that he went to the house and played with Gaur Hari till the afternoon. Then he wanted to ease himself, left his clothes with Gaur Hari, returned to the tank to wash, and then Gaur Hari drew his attention to the sounds described as "*hû hû.*" Now is this story a probable story? Would the boy give all this previous account of his going to ease himself, or do you think that this addition to the story has been made in order that the boys may corroborate each other? This you must consider. Then the counsel for the defence has suggested that the sound described is not one that the boys would have noticed, or, if they had, would have taken the trouble to investigate. As to this you must form your opinion. Further, you have to decide whether the action of the boy in mounting the wall to see what was going on, is probable or not, and, lastly, whether the description which he gives of how he saw the accused strangle the Brahmin is possible. The two men are said to have been standing, and accused held on to the Brahmin till the Brahmin fell dead.

Afterwards, a short time after, the boy is said to

have entered the house and seen the body lying, not concealed, in a room, but under a mat under the stairs. You must consider whether it is probable that he would have been allowed in the house when the body was in such a state, or, if so, whether steps would not have been taken to make him keep silent as to what he had seen. He is said to have mentioned what he saw to accused, and then to have been sent off with the fruit he wanted. After returning to his home he is said to have told his Thakurma, Bindu Bewa, what he had seen. She has been called to corroborate him on this point. It will be for you to say whether you believe her evidence, and whether you are satisfied that though she admits she did not scruple to say what was false to the police, she was so overcome by the sanctity of the oath administered in Court to her that (as suggested by the Government Pleader) she felt compelled to tell the truth. If you do not believe her, the evidence of the boy Gentu stands by itself. I must warn you to accept it with caution, considering the age of the boy and his possible liability to influence. But if you believe the boy's evidence, and believe it to be true, it substantiates the charge of murder against the accused. If you disbelieve it, the charge against him practically fails.

The last batch of witnesses are those called to prove the circumstances under which the body was discovered. If you are satisfied that the body was found owing to information gathered from a conversation of the accused which was overheard, the fact will go far to connect him with the offence with which he is charged. But the Counsel for the defence has argued that the information which led to the discovery of the corpse was

first given out by Mati Debi, and the whole of her story, as to how she gained the information, he says, is false. If so, no doubt the fact that she knew where the body was, would go far to exonerate the accused and to shift the guilt from his shoulders.

The story is that two unknown women came to the house of Jadu Chatterjee and told Mati's mother, Shama Sundari, that Lakhi had overheard the conversation in which the position of the body was accurately described. These women were not seen to enter or leave the house by anybody but Pandu, who recognized one of them as a woman whom, a few days before, he had seen quarrelling over a purchase in the shop of Mahendra Patra. Do you believe this is true or probable? The Counsel for the defence tells you it is absurd.

Do you further believe Lakhi's story, that two days after the alleged murder she saw accused and another man going along a public road and overheard the accused confess that he had committed the murder and hidden the body? The night was too dark for her to be seen by the two men, so she says, yet she saw and recognized the accused.

Also do you believe the further evidence as to the production of these women before the police?

If you believe this evidence, it no doubt goes far to connect accused with the offence for which he is charged. If you do not, the fact that Mati Debi has failed to explain how she ascertained where the body was buried goes far to exonerate him.

As to the discovery of the boxes, the fact in itself is not of much value, even if you believe that the boxes were found in the tank belonging to the accused, as it is impossible to say that they may not have been placed

there by persons other than the accused, as the tank is close to a public pathway.

You have then to consider the evidence of these three batches of witnesses. If you believe them, then the facts, which they depose, make a strong chain of evidence against the accused on which you could properly convict him of the offence with which he has been charged.

If, however, you find that the evidence fails to prove any of the links in this chain of evidence, and, especially, if you disbelieve the evidence of the boy Gentu, the evidence against the accused fails, and you will find him not guilty.

If you have any reasonable doubt of the guilt of the accused, you will find him not guilty. You have heard the evidence and the arguments of the Pleader and Counsel on both sides, and I feel sure that you will give the verdict, which you believe to be true, without fear or favour.

C. M. W. BRETT,

30*th November* 1894. *Sessions Judge.*

VERDICT.

The Jury unanimously find the accused, Shama Charan Pal, not guilty of the offence of murder under Section 302, P. C., with which he has been charged.

C. M. W. BRETT,

30*th November* 1894. *Sessions Judge.*

FINDING AND ORDER.

The Court agreeing fully in the unanimous verdict of the Jury, finds the accused, Shama Charan Pal, not

guilty of the offence of murder with which he has been charged under Section 302, P. C., and directs that Shama Charan Pal be discharged.

C. M. W. BRETT,

30*th November* 1894. *Sessions Judge.*

The Judge, in discharging the prisoner, remarked :— "I do not think he is the murderer. The matter ought to be thoroughly investigated."

NOTE BY THE COUNSEL FOR THE DEFENCE

One morning, early in November 1894, while I was sitting in my study, a young woman of prepossessing appearance, about twenty-two years of age, suddenly appeared, and startled me by falling down at my feet. In answer to my inquiry, she begged me to try and prevent her from prematurely becoming a widow. Further inquiries elicited the information that she was the wife of one Sham Pal, who was then in jail, having been committed to take his trial on a charge of murder. I had read of the case in the newspapers, as it had created a considerable sensation in the vicinity of Howrah. She assured me that she was too poor to retain the services of any legal practitioner to defend her husband, and that in the Magistrate's Court he had gone absolutely undefended. She asserted his complete innocence, and attributed the charge to disputes existing in the village of Bakshara, where he lived. I was reluctant, for several days, to accept her assertion; but having regard to the gravity of the case against her husband, and her poverty, I held out to her hopes of being able to induce some junior member of the Bar, who had the time to spare, to take up her husband's case. This assurance from me seemed to gratify her a

little, and from that time she came almost every morning to my house, in the hope of my being able to find some counsel for her husband. I was too busy at the time to go through the papers of her case, which she brought with her every day. She had failed to induce any pleader at Howrah to accept the case, as there was intense feeling there against her husband, who had been accused of, what is from a Hindu point of view, an inexpiable crime, viz. the murder of a Brahmin. She told me she had been to several pleaders, but they, one and all, refused to have anything to do with her husband's case, on the ground that the murdered man was a Brahmin. A few days afterwards, I was able to find a young member of the Calcutta Bar willing to appear and defend the prisoner at the trial. I accordingly made over the papers to him, and requested him to watch on behalf of the prisoner the supplementary evidence which was then being taken by Mr. Collin, the Committing Magistrate, after the committal. A few days before the date fixed for the trial of the case, Mr. P. Mitter, the gentleman who had kindly acceded to my request to defend the prisoner, came and assured me that he had ascertained that the feeling in the vicinity of Howrah was so strong against the prisoner, that it would be impossible for him to obtain anything like a fair trial before a Howrah jury; at the same time he begged me to read the papers of the case, and to form my own opinion upon its merits, although none of the witnesses had been cross-examined: adding that he himself was inclined to accept the woman's assurance that her husband was innocent. I accordingly went through the papers, and came to the conclusion that Mr. Mitter's opinion was correct. It was undoubtedly

difficult to hazard any definite opinion at that stage of the case, from a mere perusal of the depositions taken by the Committing Officer (as given in the Appendix); but the incident which led me to come to that conclusion was, what I subsequently pointed out in my address to the jury as the crucial point in the case, namely, the information which had led to the discovery of the corpse. The next time I saw Mr. Mitter I communicated to him the opinion I had formed, and he thereupon asked me if, under the circumstances, I did not consider it desirable to appear in the case myself, and to save the prisoner's life, especially as he (Mr. Mitter) doubted very much whether, having regard to the strong feeling among jurymen and the animus of the villagers against the prisoner, he would be able to do anything in the matter. I thereupon advised him to make an application before the Sessions Judge of Alipore and Howrah (for which districts there is one Additional Sessions Judge, who tries all the original Sessions cases), suggesting that the Sessions Judge should be asked to move the High Court to secure the transfer of the case. Mr. Mitter, accordingly, presented the application, which will be found in the Appendix, before the Sessions Judge, Mr. Knox Wight. The Additional Sessions Judge, Mr. Brett, had not then taken charge of his office at Howrah, but as soon as he did so, I was prevailed upon to appear myself in support of the application for a transfer, which I thought was the only course open to the prisoner to ensure for him an impartial trial. I knew this was an exceedingly difficult application, and I had little hope of success, but I thought every effort should be made to get the case transferred to Alipore, where the same

Judge, Mr. Brett, would try it, but where the jurymen would, in all probability, be wholly unconnected with the district of Howrah: Alipore being on the eastern or Calcutta side of the Hooghly river, and Howrah on the western side. Mr. Brett was reluctant to entertain the application, though he suggested that I should move the High Court direct; but considering the serious risk which the prisoner ran with a Howrah jury, in the event of the application not succeeding before the High Court, I decided upon taking no action after the Judge intimated to me that he would give me every facility to secure a set of unbiassed jurymen for the case. The accused has, under the law, no peremptory challenge, and jurymen can be successfully challenged only on the Judge being satisfied that there are sufficient and valid grounds for the challenge.

Having regard to the opinion I had formed of the case from a perusal of the depositions, I came to the conclusion that it was my duty to defend the prisoner, especially as there was great danger of his falling a victim to popular feeling and religious bigotry. It was, however, necessary for me, in order to appreciate the evidence, to have a correct conception of Jadu Chatterjee's house and of the locality where the corpse was found. Two or three days before the trial, I accordingly made up my mind to drive over to Bakshara and to examine the locality myself, so as to be able to cross-examine the witnesses. I first went to the house of Jadu Chatterjee and examined that part of the wall where it was alleged the hole had been made by the burglar, and from there I went to the jungle where the corpse had been buried and was discovered on the 3rd September; from there I walked over to the house of

the prisoner, Sham Pal, where I was received by his young wife, who showed me the different rooms, and handed me a bundle of papers, out of a box, which, she said, might throw light on the case. Among these papers I found copies of certain petitions against the Panchayets, which enabled me to call for the originals, which, as will be seen, were of great use to me in the trial. There was no solicitor in the case, to collect evidence on behalf of the prisoner; and, indeed, there are no solicitors practising in the District Courts of Bengal. The pleaders are supposed to do the work of attorneys as well as of counsel, and the result is that the sort of work for which solicitors are so useful in England is altogether neglected here. The wife of the prisoner, practically, acted as the solicitor in the case, and gave me all the information which enabled me to cross-examine the witnesses. As I was coming away from Bakshara, my carriage was stopped by a deputation of about a dozen Brahmins and other villagers, who said that they wanted to speak to me. They asked me to get down, but as I declined, they inquired if I had made up my mind to save from the gallows the murderer of a Brahmin. I replied that it was not in my power to save anybody's life, but that I had certainly made up my mind to see that the prisoner was properly defended and had a fair trial, adding, at the same time, that I believed him to be innocent. This remark of mine seemed to shock the men standing round my carriage, and they all asked me the question, "If Sham Pal is not the murderer, will you tell us who is?" To this I replied that I was not called upon to tell them whom I suspected, and asked them if any one of them had read the depositions in the case, or had seen the murder

committed. To this they all replied in the negative, and in answer to my question, as to how they had become convinced of the prisoner's guilt, they replied: "Every one says so!" I asked them to wait for the result of the trial, and not to be led away by the opinions of irresponsible and ignorant persons. They seemed to be rather disappointed, and displeased at my attitude, and they remarked that, if I persisted in defending a man whom everybody believed to be guilty, I should make myself very unpopular in the country. I agreed to take the risk, and quietly drove back to Calcutta.

The trial came on at Howrah on the 21st November, before a Hindu jury selected from remote parts of the district. The court-house was daily thronged with villagers from Bakshara and its neighbourhood, and so strong was the feeling excited against the prisoner that I received no less than three anonymous letters during the trial, finding fault with me for having voluntarily offered my services for the defence of a man well known by his neighbours and friends to be a murderer and a villain. I have no doubt myself, that similar letters were also addressed to the jurymen sitting in the case, and the mob did not even hesitate to give expression to their feelings as I passed up and down the stairs of the court-house twice daily.

On the termination of the trial, the Judge declaring that, in his opinion, the man was innocent, the prisoner had the greatest difficulty in getting out of the court-house; he would probably have been mobbed, if I had not myself spoken to the crowd and escorted him, protecting him all the time with a walking-stick I had in my hand. I brought him from the Howrah Court-house to my own house in Calcutta, where his young

wife was anxiously waiting to hear the result of the case. A few days after the trial was over, I drew the attention of Mr. Collin, then Magistrate of Howrah, to the evidence elicited in the Sessions Court, and suggested to him the desirability of instituting a fresh police investigation into the circumstances connected with Jadu Chatterjee's murder. He approved entirely of my suggestion, and was most anxious to do all he could to unravel the mystery. At my suggestion he sent for and secured the original account-book in the handwriting of Jadu Nath Chatterjee, containing the details of the pledged jewellery, which, strange to say, had never been taken charge of by the police, as it would be the only real evidence to establish the identity of some of the stolen jewellery, should any of it, hereafter, be discovered. Mr. Collin also specially deputed an Inspector of the Detective Department to inquire into the matter; this officer carried on his inquiries for some days, and, from time to time, confidentially reported to me, with the sanction of the Magistrate, the results he had obtained. Unfortunately, however, there were two obstacles in the way: firstly, all the villagers were against any further inquiry; secondly, the police-officers who had already committed themselves to an expression of opinion as regards the case, were still exercising authority in Howrah, and would lend no assistance whatever to any detective officer, the result of whose investigations might, possibly, be to expose their own mistake. The latter difficulty I had foreseen and pointed out to Mr. Collin; but, I presume, official etiquette, or the prestige of the higher police authorities in Howrah, were in the way, and Mr. Collin, probably, found himself powerless to move any further in the matter. Mr. Collin shortly afterwards left the

district. Notwithstanding these obstacles, the detective officer succeeded in ascertaining certain important facts, and in following up the clues to a certain point; but he was unwise in prematurely disclosing his identity in the village, and the result was that he had to return unsuccessful. Much important information, however, was gathered by him, throwing light on the whole case; but it would be manifestly improper for me to divulge any portion of that information, as, even now, I ought not to despair that an honest and intelligent inquiry may some day be the means of bringing the real culprits to justice.

So strong was the feeling of the villagers against Sham Pal and his wife, that the latter have found it impossible, from the day of the acquittal, to live in their own house, and, under my advice, they are now living in the town of Calcutta, where Sham Pal is earning his livelihood as a compositor in the office of a well-known firm of printers. The villagers tried to rake up an old case against him, and charged him with perjury, as regards a deposition he had given long before Jadu Chatterjee's death, but they were unsuccessful. Sham Pal is still afraid to go to Bakshara. and is anxious to sell his house there, but can find no purchaser. The Howrah police, however, have revenged themselves upon him by getting the magisterial authorities to refuse to renew his licence for the very gun with which his son had indirectly saved his life. The gun has been confiscated because Sham Pal was implicated in this murder case. For this act of petty tyranny he has absolutely no remedy.

M. GHOSE.

17, *Theatre Road, Calcutta,*
June 1896.

APPENDIX

GROUNDS OF COMMITMENT.

THE EMPRESS *v.* SHAMA CHARAN PAL.

Section 320, *I. P. C.*

I HAVE committed Shama Charan Pal for trial for murder (Section 302, I. P. C.) on the following grounds :—

The deceased, Jadu Nath Chatterjee, lived at Bakshara with his wife and an Uriya servant. He was a *mahajan* (money-lender), and on the 29th August, according to the prosecution, the accused came to him after the midday meal, and asked him to restore some gold ornaments which accused had pledged with him, as he had found a purchaser. He would take the ornaments away, sell them, and then come and pay off the money due to the deceased. The deceased said he would rather accompany the accused, as he objected to let the ornaments go out of his sight. Accordingly, the two men went out together. According to the evidence, there are two paths leading to the house of the accused, and the deceased and the accused went thither by separate paths. They were seen to enter the house of the accused, and the deceased was not seen again. He did not return home that night, but this was not noticed by his wife, as he was in the habit of being out late at night.

When, however, the wife and the Uriya servant awoke in the morning, they found all the doors bolted from the outside, and they had to break down a mat partition to get out. When they came to the front of the house, they found that the room where deceased kept his pledged ornaments was broken into, and that the box containing them had been opened and all the property gone. The box was not broken open, but unlocked, and the lock and key were gone. Suspicion at once fell upon Sham Pal, the present accused. He was sent for, and it was noticed that he had a swollen thumb and marks of mosquito-bites on his back. Unfortunately the police did not send him to be examined as to the swollen thumb. He, of course, denied all knowledge of the deceased, and information was given to the police. The police did not direct their attention to the present accused particularly, as they had another theory, and consequently little was done for several days. The body could not be found, and it was only on the sixth day after disappearance of the deceased, *i. e.* on the 3rd September, that the body was found buried in about two feet of ground, about eighty yards from the accused's house. Further inquiry was then made, and the following evidence has been collected to connect Sham Pal, the accused, with the murder.

First, as to the motive. The wife of the deceased, Srimati Debi, asserts that, about four days before the murder, the accused came to her husband and asked for some ear-rings which he had pledged with him. The deceased had to pull all his pledged property out of his chest to find them, and it is not unnatural to suppose that this excited the greed of the accused to murder and rob the deceased. The accused is not well off. He appears from his examination to be a bad neighbour and a quarrelsome person, and it is not out of the way to suppose that he formed such a plot. It is evident that the box containing

the ornaments was opened by some one who had the keys of the deceased at his disposal.

Next, it is admitted by the accused that he came to the house of the deceased on the afternoon of the day that he is said to have been murdered. The accused denies that he left the house with the deceased, or that the deceased came to his house, or that there was any talk about the transfer of the ornaments. On this head there is the evidence of Srimati Debi, wife of the deceased, who heard the conversation and saw them leave together. Next, Bhuti Dasi saw them on the road just outside the deceased's house near where the paths to the accused's house separate. The two men appear to have separated here, and one Kebal Ram Mukerji saw the deceased passing along the road to the north. The deceased was again seen by a woman, Khudi (Khadan), close to Sham Pal's house. She saw him go into Sham Pal's house.

The next evidence is more direct, but of a less reliable character. After some inquiries, Nritya Bewa, who lives on the north of the accused's house, was found, who said that she saw the accused's grandson go to the house of accused that day. This is corroborated by one Kali Pada Pal. The grandson was sent for. He is a boy of about nine years of age, by name Manmatha Nath Ghosh, nicknamed Gentu. He was too young to be put on oath, but he seemed to know what it was to tell the truth. His story was given in a very straightforward way. He said that he had come to his grandfather's house that day for some fruits. He lives about a mile away. He stayed playing about and had his meal there. After his meal, his grandfather went out, and the Brahmin came to the house. He describes the Brahmin accurately, but does not know his name. His grandfather followed, and they went into the house. He was sent outside and the doors were locked. He heard some groaning noise inside the house and tried

to get in; but failing to do so, he climbed up a wall, and looking over the courtyard wall, he says he saw his grandfather throttling the Brahmin. He jumped down very frightened. After some time he called out to his grandfather, who let him in, gave him his fruits, and sent him home. He, however, had forgotten his neckcloth, and going back he had to go inside the house, and there under an archway, he says, he saw the body of a man covered over with a mat. He asked what it was, and his grandfather told him to be off.

This story is, to some extent, corroborated by the evidence of a little boy, Gaur Hari, with whom he was playing, and also by the evidence of his grandmother, who says that when the boy came home, he said that his grandfather had murdered a Brahmin, but she did not pay any attention to what he said.

The further evidence against the accused is, that the body was found about eighty yards from his house, and there is no other suggestion as to how it came there than that the accused buried it there. It might be thought that possibly some one in the deceased's own house might have taken the body there, but the distance and the narrowness of the path through the jungle make this most improbable.

Again, search was made for the stolen property. The search made by the police at first was not effective, and the accused could easily have disposed of it without it being known. No property was found; but in the tank belonging to the accused, and just outside his house, two tin boxes were found, and were identified by the wife of the deceased to the satisfaction of the District Superintendent of Police, and are also identified by other witnesses to be the property of the deceased.

The body was sent in for *post-mortem*, but decomposition had advanced too far, and the Civil Surgeon was not able to state the cause of death. The marks on the throat were

not sufficiently distinct to say if the deceased had been throttled. There was one point which corroborated the prosecution, viz. that the deceased had, at the time of death, just been eating, as he had a full meal of rice in the stomach.

There is a further item of evidence which, however, I think extremely doubtful. This is the evidence of a woman called Lahki. She says that, about two days after the disappearance of the deceased, she was coming along a lane in Bakshara. Two men were in front of her, and she heard one, whose name she did not know, telling the other that he had killed a Brahmin, and had buried the body in a particular place. She said nothing about this at first, but afterwards told another woman; and as the body was not found, they went and told the mother of deceased's wife and then ran away. The police were told, and they at once searched at the place indicated, and found the body. The woman was afterwards traced, and she identified the accused, among a number of other people, as the man she had heard telling his story in the lane. The other man has not been found. I am bound to say that I look upon this portion of the evidence with great suspicion. It is not, however, very material.

I have briefly given the history of the case. The facts against the accused are strong. If the evidence of the boy, Manmatha Nath Ghosh, is believed, they are incontestable. I consider it a question for a jury to decide whether he is worthy of credence or not, and therefore I have committed the accused for trial. It is without doubt that the deceased was murdered and his house robbed. All the evidence and circumstances point to the accused as the murderer. It is difficult to explain away the evidence, except on the theory that the witnesses have combined to bring the guilt home to the accused. If, however, they had done so, they would have taken a more direct course.

Under all these circumstances, I consider the committal of the accused on a charge of murder necessary and justifiable.

DATED HOWRAH:
28*th September* 1894.

E. W. COLLIN,
District Magistrate.

CHARGE.

(Sections 221, 222, 223, Code of Criminal Procedure.)

I, E. W. Collin, Officiating District Magistrate of Howrah, hereby charge you, Shama Charan Pal, as follows:—

That you, on or about the 29th day of August 1894, at Bakshara, did commit murder by causing the death of Jadu Nath Chatterjee, and thereby committed an offence punishable under Section 302 of the Indian Penal Code, and within the cognizance of the Court of Sessions. And I hereby direct that you be tried by the said Court on the said charge.

DATED HOWRAH:
The 28th day of September 1894.

E. W. COLLIN,
District Magistrate.

EVIDENCE RECORDED BY THE COMMITTING MAGISTRATE.

The deposition of MANMATHA NATH GHOSH, aged about nine years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 10th day of September 1894.

My name is Manmatha Nath Ghosh. My father's name is Ram Chandra Ghosh. I am by caste Satgope. My home is at Mauzah Jogacha, Police Station, Domjore, Zillah

Howrah. I reside at present in Mauzah Jogacha, Police Station, Domjore, Zillah Howrah, where I am.

Note.—The boy seems too young to be sworn, but I have asked him as follows :—

Q.—Do you know whether it is right to tell truth or falsehood ?

A.—It is wrong to tell a falsehood. I know this. I never tell anything but the truth.

Q.—Now tell me everything which you have told the police in the course of this inquiry.

A.—I live at Jogacha. Sham Pal is my grandfather, and about five days or six, I went to his house, early in the morning, after sunrise. I came to get some *amras* and *tals* (fruits). I had my food with my grandfather about mid-day. Sham Pal's wife was in the house. She is my *didima*. Sham Pal ate *pan* and went out. I saw him after a time return home with a man, whom I recognized by the sacred thread to be a Brahmin. The Brahmin came first. He was dressed in red cloth printed "*chap chap.*" Then Sham Pal came. The Brahmin stood in the yard. Then when Sham came the Brahmin said: "Well, Sham, whatever you have to say, say it." They then shut the doors, and I went out to attend a call of nature. When I came back I heard a sound of moaning, "*hû hû.*" I then got on the wall outside the house and looked over, and saw that Sham Pal had caught the Brahmin by the throat. They were standing up. They were struggling. The Brahmin's hand and feet were moving about. (The witness shows how he saw the man Sham Pal let go of him, and he fell down on the ground.) I then jumped down from the wall, and I stood for some time outside, and I went to the gate and asked my *didima* to open it. I went inside. I saw streaks of blood on the ground in the courtyard and on the platform. I saw my *didima*. I asked for the *amras* and *tals* from her. She gave them to me. I was

then coming away home, and I went back for my (*urani*) cloth. I thus saw the feet of the Brahmin under the staircase. The body was covered with a *jhentla* (kind of mat). I asked my *dada* (Sham Pal) what is that (*okigo*). He said "*palao, palao,*" "run away." I got my cloth and I went home to Jogacha. I held my two *tals* in front of my chest wit both hands, hand tied up the *amras* in my clothes in front. My *thakurma* (paternal grandmother) lives there. My father works at Darjeeling in a printing-office.

Sham Pal's son once took away my father's (*jama*) coat, and would not give it back till he got Rs. 4 (volunteered by witness). I went to my *thakurma* and told her that the *dada* (Sham Pal) had killed the Brahmin. I did not know who he was. I only knew he was a Brahmin by his sacred string. I know the Brahmin had on a red (*chap chap*) cloth. He was a light complexion man. He was not an old man. He had not grey hair. He was a long man. I went early to get the fruits, but I stayed as it was too hot (*ekhon rod chilo*) to go home. I was playing with Gauri, the son of Hatu. He did not climb up the wall with me. He was afraid. He is smaller than I am.

I was trembling with fear (*thor thor*) when I saw the two men struggling. Gauri first called my attention to the groaning in the house. There was no crying out except the groaning.

Note.—The above evidence was recorded in the absence of the accused, and was afterwards read over to the witness in the presence of the accused.

The witness understood it and admitted it to be correct. He gave his statement in a very straightforward manner, and it appeared to me that he was telling the truth.

E. W. Collin,
Magistrate.

Examined in the presence of the accused.

Q.—Is this the present accused your *dada* Sham Pal?

A.—Yes.

Q.—Is he the man you saw struggling with the Brahmin in his house as you have stated?

A.—Yes.

E. W. Collin,
District Magistrate.

10*th September* 1894.

Read over and admitted correct.

E. W. Collin,
Magistrate.

12*th September* 1894.

Manmatha Nath Ghosh.—Re-examined on the scene of the occurrence near Sham Pal's house, in the presence of the accused Sham Pal:—

Q.—You have said that you got on the wall and climbed up and looked over into the house, and then saw your grandfather struggling with a Brahmin. Show me how you climbed up the wall.

A.—I was playing on the steps of the tank when I heard the sound inside the house. I tried the wicket-gate, but found it locked. I then went round to the east of the house and got upon a seat there and thence on a wall, and so along a wall, till I could look over the wall, and there I saw the men struggling.

Q.—You have said that you saw from the wall the two men, *i. e.* your grandfather, Sham Pal, and a Brahmin, struggling together. Show me the exact place where you saw them struggling.

A.—(Witness points out the spot about seven cubits from the eastern door.) This was the spot under the *machan* (archway), there where I saw two men struggling as stated before. The men were not lying down, but were standing.

Q.—You have said that you came back into the house by the wicket to get your cloth, and you then saw the feet of the Brahmin and his body covered with a mat. Show me where the body was seen by you.

A.—I went round to the wicket on the south and west into the courtyard and saw blood where I had seen the men struggling, and on the platform to the south of the house. When I went in to get my cloth I had to go inside the house to get my cloth, which was lying there (shows the spot), and from there I saw the feet of the man under an archway (which he shows, marked × 4 on the plan, marked × 1 on the map, marked × 2, marked × 3).

Read over and admitted correct.

E. W. Collin,
Magistrate.

12*th September* 1894.

The deposition of Bindu, aged about 50 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, the 10th day of September 1894.

My name is Bindu. My father's name is Thakur Das Haldar. I am by caste Satgope. My home is at Mauzah Jogacha, Police Station, Domjore, Zillah Howrah, where I am supported by my son.

My son is Ram Ghosh. He has gone to Darjeeling for work in a printing-office. The boy in Court, Manmatha, is my grandson, *nati*. The accused is my son's father-in-law. I sent the boy to Sham Pal's house the day that the Brahmin was murdered. I sent him early in the morning. He returned about 4 or 5 in the evening. I sent him that day to get *amras* and *tals*. He brought the *amras* and *tals* back. He said that he had come back because his *Didima* and *Dada* had told him to go away. He also said that his grandfather had murdered a Brahmin. I did not believe his statement or pay much regard to it.

Read over and admitted to be correct.

E. W. Collin,
District Magistrate.

10*th September* 1894.

The deposition of KHADAN, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate, this 10th day of September 1894.

My name is Khadan. My father's name is Kenaram Ghosh. I am by caste Satgope. My home is at Mauza Bakshara, Police Station, Domjore, Zillah Howrah. I am a widow.

I live by husking paddy. I know the present accused, Sham Pal. His house is short distance from mine. My land adjoins his house. I know Jadu Nath Chatterjee. He is dead. I saw him on Wednesday week. I was tying my cow on the road-side, about 3 or 3.30 in the day in the afternoon. I saw Jadu Nath go to Sham Pal's house. He had on red clothes (*namabali*). He had a little parcel, white, in his hand. He passed me by about five yards off, and went into Sham Pal's house. I did not see Sham Pal. I then went into my house.

Read over and admitted to be correct.

E. W. COLLIN,

10*th September* 1894. *District Magistrate, Howrah.*

The deposition of NRITYA BEWA, aged about 30 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 10th day of September 1894.

My name is Nritya Bewa. My father's name is Biswa Nath Ghosh. I am by caste Satgope. My home is at Mauza Bakshara, Police Station, Domjore, Zillah Howrah, where I am a shopkeeper.

I know Sham Pal. My house is about fifty or sixty cubits from his house. I know Jadu Chatterjee. He is dead. I did not see him the day that he was murdered. I know the boy who is in Court (points out Manmatha

Nath Ghosh). I know him because I have seen him come to the house of the accused. I saw him go to the house on the Wednesday before last. The Wednesday before last I saw him about half-past eight or nine in the morning. I remember the day, because next day there was a *golmal* about Jadu Nath. I saw the boy in Sham Pal's house. His house is at Jogacha. I saw that he went home in the afternoon about four or five.

My house is on the side of the road leading to Sham Pal's house.

I first gave information of seeing the boy there on Friday last. I don't know whom I told this.

Read over and admitted to be correct.

E. W. Collin,

10*th September* 1894. *District Magistrate.*

The deposition of Sri Mati Debi, aged about 36 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 12th day of September 1894.

My name is Sri Mati Debi. My father's name is Bhola Nath Banerjee. I am by caste Brahmin. My home is at Mauza Bakshara, Police Station, Domjore, Zillah Howrah. I reside at present in Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am.

Jadu Nath Chatterjee was my husband. He is dead. I last saw him on the Wednesday before, about fifteen days ago. He had his meal about one o'clock. Sham Pal came to his house just after he had finished his meal. Sham Pal said that he wanted to dispose of the *tabij* which he had pledged with my husband, and that he had a customer at his house. My husband said he would get the *tabij*, and he opened his chest, took out the *tabij*, threw his *namabali* (sort of cloak) on his shoulder and went out. He did not wait to smoke or take his *pan*. Jadu, deceased, had said

that he would not let the *tabij* go out of his sight. He would go with Sham Pal if he was to sell it. I was present when the *tabij* was taken out of the box. There was a small lid to the box, which was opened by a key which Jadu kept on his waistband. When he had taken out the *tabij*, he locked the chest, and taking the *tabij*, which was tied up in paper and then covered with a rag, he went out with Sham Pal (showing the present accused).

When Sham Pal came, my servant, Pandu Uriya, was in the house. He was in the courtyard behind the house. Sham Pal called him and he came into the room, and Sham Pal asked him about Hari Pan, and at what hour he attends and leaves Apcar Company's factory, as he was a witness in some case. Pandu told him. This was when Jadu was washing after his meal before he had begun to open the chest. Pandu then went away. He was not present when the chest was opened. Sham Pal came straight into the house; he always comes in without calling. He came into the room where the chest is kept—the Babu's room. There had been some previous conversation about the selling of the *tabij*. Five or six days before that he had said he would sell them. Four days before this day, the accused came to get some ear-rings which he had pledged, and which he said he would sell. The deceased had to get all the ornaments out of the box before he could find them. Sham Pal did not take them away. He only said that he would sell them. When I saw him taking out all the jewellery in the day-time, I told him he was very rash and would be robbed, and I asked him to give me my gold necklace, but he refused, as it had no ribbons, he said. When he was getting the ornaments out Sham Pal came in. There had been some previous talk between Jadu and Sham Pal about the ear-rings. Sham Pal did not take the ear-rings that day, nor did he take them afterwards, but four days afterwards he came for his *tabij*.

When Jadu went out he was dressed in a *dhuti*, a dirty one, and a *namabali* cloth over his shoulder, and a pair of slippers. The cloth produced (*Exhibit B*) is the *namabali* cloth.

Jadu did not return that night. I went to sleep in my room, which is the western room of the house facing south. I heard nothing during the night. After cooking I fed my little niece, a girl about five, and the servant, Pandu Uriya. I then bolted the door to the south, both my room and the room next where the chest is kept, on the inside. The door leading to the cook-shed to the north I bolted on the inside. I put up the chain of the door leading between the two rooms from my side. I slept there with my niece; about eight o'clock I prepared my husband's meal, and kept it ready for him in the cook-room as usually done. He often comes home late at night.

I was woke up by the servant, who called and said who had bolted the door from inside. I opened my door towards the cook-house, and I found my husband's food as I had kept it. The servant came into my room, as the door by which he usually left his quarter was bolted. He then found that the door leading to the Babu's room was bolted inside. He then tried to open the door of my room leading to the south. This was also found bolted outside. He then went outside and pulled down a fence on the west of the verandah leading to the *baitakkhana*, and so got out of the courtyard and came round and got into the house by the door on the east, leading to the garden or courtyard on the south. I went after him. When we came to the south of the front, we saw that a hole had been made under the window of the Babu's room. The southern door was open also. I fell down crying. Pandu Uriya went into the room and found the chest open. We talked about this, and I went off to the house of my husband's younger cousin, Prasanna Chatterjee, who lives next door, and told

him what had happened. He came into the house with many others. I told him that the deceased had gone out with Sham Pal, that the deceased had the key upon him, and the box was opened with a key, and so I suspected Sham Pal. The neighbours sent for Sham Pal. He came, and we asked him where Jadu had gone, as he had gone with him. Sham Pal answered nothing, and afterwards went away. After this Pandu went off to tell the police.

I identify the two boxes produced (*Exhibit C* and *Exhibit D*). The larger box (*Exhibit C*) contained necklets, &c. The smaller box held the smaller ornaments. The deceased had many other ornaments which were not kept in boxes. There were two other small tin boxes. I cannot identify the weights produced. I cannot say what property was stolen. It will be found in the *khatabahi* (account-book).

Besides Sham Pal, Ram Lal Ray and Nibaran Chakravarti used to go into the room where my husband lived. When Sham Pal came into the house in the morning he had a swollen finger. He was asked about this. He first said that he had been bitten by a centipede. Then he said that he had been hurt while tethering the cow. Then he said that he had rheumatism. He had marks of mosquito-bites over his shoulder. He said he had no curtain, but when the Darogah came, he gave him a curtain to use.

When the body was found I saw it. I was able to identify it as the body of my husband. The joint of the big toe was enlarged and big from wearing *sandal*, and the big toe on both feet was bent inwards. I generally identified the body as that of my husband.

My mother told me on Saturday—no, it was Monday, six days after the occurrence, in the afternoon—that two women had come to her: one was a married women (*bau*), one was a girl (*churi*). They said: "Have you not found the body? If you search near a Brahmin's tank, there is a sort of bush there (*nataban*), and in the ditch there you will find the

body buried there, and some plants have been planted on it." When I heard this I told Bindaban, a villager, who told the police.

My mother lives at Ghoorol, about seven *kros* (14 miles) off. She had come to live with me. I had sent for her, as I had to celebrate religious ceremony. She came the day after the murder.

My husband, the deceased, was not an old man. His hair was a little grey. He was about as old as this man (points out a man of about 40). He was not very thin. He was not as tall as Sham Pal, and used to walk in a stooping fashion.

E. W. Collin,
District Magistrate.

12*th September* 1894.

The deposition of Pandu, aged about 34 years, taken on solemn affirmation, under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 12th day of September 1894.

My name is Pandu Barik. My father's name is Shibu Barik. I am by caste Barik. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am servant in Messrs. Apcar's Mill.

I have lived for ten years with Jadu Nath Chatterjee, the deceased. I work there as a servant. I get my *khoraki* (board), and look after his garden and general work.

On Wednesday before last I was in the house of Jadu (deceased). I was cutting straw to give the cows, about 2 or 2.30 P.M., when Sham Pal (the present accused) came into the room of the deceased where a chest was kept. He called me when I was in the courtyard to the north of the house where the cows are kept. I went to the room, and Sham Pal asked me at what hour does Hari Pan, the son of Gopal Pan, go and return from business at Apcar and

Company's Mill. I said at 7 A.M., and he got away at 5 P.M. I then went away to fish in a tank to the south of the house; when I came back after a short time (he says ten or fifteen minutes), both Sham Pal and Jadu Nath had gone. When I was talking to Sham Pal, Jadu was standing in the room, he was not doing anything.

At night I went to sleep about nine o'clock after getting my food from the wife of Jadu Chatterjee. I put up the chain of the door leading from the front courtyard to the back courtyard. I always put up the chain. I heard nothing all night. I woke up early in the morning. I found the door leading out of the courtyard bolted from inside. I called to the woman (*ginni*), wife of Jadu Nath, and told her. She said: "Did not the Babu come home last night?" She opened the door leading from her room to the kitchen. I tried to get into the Babu's room, but found the door leading from the wife's room to it was locked from outside. The door leading out from the south was also chained from the outside. I then came round and broke down a mat fence leading to the verandah of the *baitakkhana*, and went round by the east door with the Babu's wife and so into the southern courtyard. I then found a hole cut in the wall of the room where the Babu sleeps, and the door fencing south open. The Babu's wife fell down crying on seeing this. I went into the room and found the box where the Babu kept his ornaments open, and the lid lying on the floor. The middle door leading to the woman's room was bolted on the inside.

I went running to the next house where Prasanna Chatterjee lived with the wife. All came running, and saw what had happened. The wife mentioned about Sham Pal, and I was sent to call Sham Pal. I found the door of Sham Pal's house bolted from inside. I called him, and he came along with me to Jadu's house. He was asked what he knew of Jadu, as he had taken him away. He answered

nothing. I then went off to call the police. This statement (the First Information, *Exhibit E*) is the statement I made to the police. When the body of Jadu Nath Chatterjee was found, I recognized it by the big toes which were bent. I did not recognize it by anything else.

I identify the two boxes (*Exhibit C* and *Exhibit D*) as the boxes of the deceased in which he used to keep his jewellery. I have seen them taken out from time to time. I saw two women come to the mother of Jadu's wife, but I did not know them by name. I knew one of them by sight. I had seen her at the shop of Mahendra Patra, and he told me that her name was Lakhi, and that she lives at Paton Pabra, or near there. This woman (who gives her name as Lakhi) is the woman whom I saw speaking to the mother of Jadu Nath. I told the police of the name of the woman, and where she lived.

Read over in the presence of the accused, and admitted to be correct.

E. W. Collin,
District Magistrate.

12th September 1894.

The deposition of Gaur Hari, aged about eight years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 12th day of September 1894.

My name is Gaur Hari. My father's name is Hatu Ram. I am by caste Satgope. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am.

Q.—Do you know what it is to tell the truth or falsehood?

A.—It is a sin to tell a lie.

Q.—Do you know what is done to people who tell falsehood?

A.—They are punished.

Note.—The witness is a little boy, and I do not think that he can be sworn. He however appears to know the distinction between truth and falsehood.

Q.—Do you know Gentu (points to Manmatha Nath, whose nickname is Gentu)?

A.—Yes, I know him. I remember that I was playing with him one day. He called me from the house of Kali Pal which is near the house of Sham Pal. (He points out a distance of about thirty yards.) It is close to the house of Rasik—on the north. I went to play at the pucka ghât (masonry steps) of Sham Pal's tank. This was after the mid-day meal. I did not see any one come to the house of Sham Pal. After a time Gentu went to ease nature. When he came back I heard a noise inside the house. I said: "Who is making noise *hû hû?*" Gentu then got up on the wall where there is a seat and looked into the house. I was frightened, and ran away home. I did not see Gentu try to get inside the house. I ran away when he was on the wall.

The deposition of LAKHI, aged about 30 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Lakhi. My father's name is Kinkar Poramanik. I am by caste Napit. My home is at Mauzah Satghara, Police Station, Domjore, Zillah Howrah, where I am labourer and milk-woman.

I knew the deceased. I went three days after his disappearance to Bakshara to see the place where I heard that a man had been killed and a burglary committed. I went alone. I walked about and came back again. There were many people there. Six days after the disappearance I went again with another woman by name Pocha, and a little girl. I went about three or four o'clock. I met the mother-in-law of the deceased. I do not know her name.

Two days after the occurrence I was going from Bakshara, where I had gone to milk the cow of a Satgope. I do not know his name. He lives close to the outpost at Bakshara. After dark I was coming away, and on the road, about the distance of a *dâk* (as far as one can be heard calling), I saw two men; one of them was Sham Pal (the present accused), and the other man I do not know. He was a tall, thin man. I had seen Sham Pal before many times. I did not know his name, but I knew him by sight. I was about four yards from them (shows distance); I heard them talking. Sham Pal said: "I have done a wrong act. I have killed a Brahmin. I have taken everything of his. I have buried the dead body not in my own garden, but in a ditch between my garden and another man's garden. I could not bury him deep. I have planted *kachu* plants and *nata* plants over the place." The other man said: "Why have you done such a thing?" and I did not hear anything more. I told this to Pocha when I was going to Jadu's house six days after the murder, in the evening. We went to Jadu's house and saw his mother-in-law, and Pocha gave her some information. I was asked for details, but I said to Pocha, "Why did you say this?" and I ran away. Next day Pandu and a Chaukidar came and called me and took me to the house of Jadu Chatterjee. There were a number of people there, and the District Superintendent of Police (points him out). He took me to the house of Jadu, and I identified Sham Pal, who was standing among a crowd of people. I did not know his name before that. I only learnt his name then that day.

By the Court:—I was afraid to mention what I heard before. I am a woman. How can I say such thing? The other woman, Pocha, spoke out. I could not have done it. I told her, because the body was not being found for so many days.

Read over and admitted correct.

E. W. Collin,
District Magistrate.

Further examined:—I identify this woman (points out Shama Sundari) as the mother-in-law of the deceased.

E. W. Collin,
District Magistrate.

The deposition of Pocha, aged about 25 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Pocha. My father's name is Paran Ghosh. I am by caste Satgope. My home is at Mauzah Satghara, Police Station, Domjore, Zillah Howrah, where I am a labourer.

I know Lakhi. I live some way from her house. She called me one day to go to Jadu's house at Bakshara to see the place of the murder. I went with her. On the way she told me that the body had been buried in a ditch by the side of a garden, and that *nata* thorns and *kachu* plants had been planted over it, and that if that place was searched, the body would be found where thorns and *kachu* plants had been planted. I went to the house of Jadu, and I saw there the mother-in-law of Jadu (points her out). I told her to search the place where there is a ditch, and where there are *kachu* and thorn plants, as Lakhi told me. She said: "Who told you?" and I pointed out Lakhi, who was sitting there. We then went away. This was about four in the afternoon. This was on the day that the body was found. I can't say, but it may have been Tuesday.

Read over and admitted to be correct.

E. W. Collin,
District Magistrate.

13*th September* 1894.

The deposition of Shama Sundari, aged about 50 years, taken on solemn affirmation under the provisions of Act X.

of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Shama Bewa. My father's name is Ram Charan Mukerji. I am by caste Brahmin. My home is at Mauzah Ghorool, Police Station, Jagatbullabpore, Zillah Howrah. I reside at present in Mauzah Ghorool, Police Station, Jagatbullabpore, Zillah Howrah, where I am.

I came to the house of Jadu Chatterjee. He is my son-in-law. I came there the day after Jadu's disappearance. I lived there with my daughter. Six days after the disappearance, I was in my house and the two women came to the house. Pocha (points her out) came up to me, and the other, Lakhi (points her out), was standing at a little distance off. Pocha asked if the man's body had been found. I said: "No." She said: "Is no search made?" I said: "Yes, search has been made." She said: "Search where there is a ditch, and where there are *nata* thorns, and where there are *sotigach* and *hulud* planted, and the body will be found there." I did not ask her who told her. I did not ask her anything more. I asked her when she heard this, and she said: "Never mind from whom I heard this. You had better have a search made there." I told my daughter of this. She was then with the police in the *baitakkhana* sitting-room. This was a little while after the woman had given me the information. There was a Brahmin there. My daughter told him, and he told the police. That evening the body was found.

Read over and admitted correct.

E. W. Collin,

13*th September* 1894. *District Magistrate.*

The deposition of Rasik Lal Bose, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Rasik Lal Bose. I am Sub-Inspector of the Domjore Thana. I received the first information (*Exhibit E*) from Pandu Uriya, and the statement of Pandu was written down by me, and read over and admitted by him to be correct. This was on the 30th August about midday. I then went to Bakshara, which is eight or nine miles off. I went at once to the house of Jadu Chatterjee. I saw the *sindh*, and examined the box. The lid of the box was open, not broken, but unlocked, and the key and lock were gone. I examined the whole place, but got no clue. I took the evidence of Srimati. I examined the *khata-bahis* (account-books) of the deceased to see what was stolen, and have a list of ornaments, amounting to Rs. 1,367, which was said to be stolen. I was told that the deceased had gone out the day before with Sham Pal; that he took some *tabij* with him, but he had not returned. I learnt also that he had gone out with the *namabali* cloth on. I called Sham Pal that day—not that day, but the next morning. He said that he had only come to Jadu's house to ask Pandu Uriya about a witness who worked at Apcar and Co.'s mill. He had not taken Jadu away with him. I noticed that the thumb of his right hand was swollen. He said that he had been bitten by a centipede. I saw also that he had some mosquito-bites on his back and side. I did not confront Sham Pal with Pandu or the wife. I searched the house of Sham Pal the day after I had arrived. I found nothing there, nor anything of a suspicious character. I called a crowd of Chaukidars, some constables, and searched all the jungles near Jadu's house, and near the house of Sham Pal, but nothing was found. I searched the tanks also to no effect. On Monday, the 3rd September, I was in Jadu Chatterjee's *baitakkhana*, and the wife of the deceased was with us. She went inside the house, and shortly returned and told us that two women had come and told her mother that the body would be found if search

were made in a ditch near a Brahmin's tank, buried in the ground under a *patit* (waste) of *nata* bush jungle, and that plants of *kachu* trees had been planted over the place. I at once asked where she heard this. She said her mother had heard it from two women whom she did not know, and that they had gone; we went at once and tried to find them along the roads, but failed. Brindaban Mukerji and Bejoy Krishna Mukerji were sitting there, and we went to search for the place. I had asked them where there was such a place as described by the women. They said there is such a place in the garden of Tripura Brahmin. We went there and called a number of people on the road. We searched the garden. I was standing on the tank side while the Chaukidars and others searched. I heard them call out: "Come and see, there is something here," and Mahendra Ghosh and others called me. I went to the ditch and I saw a grave, like a Mohamedan's grave, covered over with plants of *kachu*. They were not properly planted, and were withering. I sent for a *kodali* and dug, and the body was found. The body was bent over with face downwards and the back up, and the legs turned backwards. There was no smell before we opened the grave; we got the body up on the back. The wife of deceased came and identified the body as that of Jadu, so also did Beni Madhub Chatterjee Doctor and the deceased's brother-in-law. Others also identified him. I asked them how they identified him, and they said it was by the turning inwards of the big toe. Sham Pal was not there, but he came afterwards. He arrived about ten o'clock. He did not say anything. I had him arrested on his way back from Seebpore. The constable had gone to get a Dome at Seebpore, and he met the accused and brought him along, and I then ordered his arrest, and I left him in custody.

I was present when the map (*Exhibit A*) was made, and

the place incorrectly marked where the body was found. I noticed that the fence was broken the day after the body was found. I did not notice it before. I sent the body to the Civil Surgeon in the custody of Sawrup Dewan Sing and the brother-in-law of accused. When I found the body the mouth was open, and the tongue was inside the mouth. The body was much decomposed. A *namabali* cloth was found next day in the jungle, about four or five cubits from the grave. This is the article (points *Exhibit B*). I do not know that the place was searched before the body was found. I cannot say if any one searched the place or not before this day. There was no arrangement made for the search. I said that all the jungle must be searched, but made no special arrangement. The Inspector came there on the 2nd September, but he made no special arrangements beyond ordering all the Chaukidars to search. The police supervised them. I was present when search was made by divers in the tank to the south of Sham Pal's house, opposite the wicket-door of Sham Pal's house. The two tin boxes were found, first (*Exhibit D*) and next (*Exhibit C*), in the water not far from the ghât, about five or six *haths* (cubits) from the water's edge of the ghât. The weights produced were found in the bigger box (*Exhibit C*). I took them to the District Superintendent and to the Inspector, who were present.

Read over and admitted correct.

E. W. Collin,
District Magistrate.

The deposition of H. V. H. Roberts, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is H. V. H. Roberts. I am District Superintendent of Police, Howrah. I went to the inquiry on

Saturday morning, the 8th September. I had a diver sent on to search the tanks. I went to the house of Sham Pal, the accused. I ordered the diver to search that tank. I was standing within the courtyard near the gate leading to the tank with the boy Manmatha, when the boxes now produced in Court were brought to me. There was a crowd of villagers there, who said that they belonged to the deceased. A few minutes after this I went with the two boxes to the house of the deceased. I placed them on the bench by my side where I sat down. I then sent for the wife of the deceased. She was not present when the boxes were found. She came and sat before me. I told her to look up. She looked up, and pointing to the boxes, exclaimed: "Those are our boxes in which the ornaments were kept." Then I sent for Pandu. He also identified the boxes, which he said he had seen before with his master. This was after I had drawn his attention to them. He was not present when the woman identified the boxes. Her identification was spontaneous. I do not think that she knew that the boxes had been found when I came to her house.

Read over and admitted to be correct.

E. W. Collin,
District Magistrate.

The deposition of Bhuti Dasi, aged about 45 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Bhuti Dasi. My father's name is Nilmani Ghosh. I am by caste Satgope. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah. I reside at present in Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am a householder.

I know Jadu Chatterjee. I lived near to his house. I

know the present accused. He is a neighbour of mine and my caste-fellow. On the Wednesday before last, about 2.30 P.M., or fifteen days ago, I saw Sham Pal and Jadu Chatterjee. Sham Pal was looking south, and Jadu Chatterjee was facing north with a *namabali* on his shoulder. This was on the road a little north of Womesh Banerjee's house. The road diverges westwards a little distance on, and I went along it to my house. I had come from the north and went to the west, and they were on the south. They were standing and talking. I was about half a *bigha* away from them.

When I saw them they were sixteen or twenty cubits from the corner towards Jadu's house and opposite Abinash's house.

I remember this, because next day there was an excitement about Jadu's disappearance and the burglary in his house. I never saw Jadu Chatterjee again.

Read over and admitted correct.

E. W. COLLIN,

13*th September* 1894. *District Magistrate.*

The deposition of KEBAL RAM MUKERJI, aged about 20 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Kebal Ram Mukerji. My father's name is Kedar Nath Mukerji. I am by caste Brahmin. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am.

I knew Jadu Nath Chatterjee. His house is near mine. It is correctly shown on the map (*Exhibit A*). I last saw him on Wednesday, sixteen or seventeen days ago. I was standing at my door, and I saw him pass along the road northwards. He had on a red *namabali* cloth and a white *dhuti*. He had a small parcel in his hand, which he carried

behind him, and walked on with a bent back. This was about 2.30 or 3 P.M. I asked him where he was going, and he said, I am going this way.

I did not see him again. I remember this, because of the excitement about him next day.

Read over and admitted correct.

E. W. COLLIN,

13*th September* 1894. *District Magistrate.*

The deposition of BHUT NATH, aged about 23 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 13th day of September 1894.

My name is Bhut Nath Ghosh. My father's name is Jadu Nath Ghosh. I am by caste Satgope. My home is at Mauzah Jagachia, Police Station, Domjore, Zillah Howrah. I reside at present in Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am rivet-man.

My father-in-law's house is at Bakshara, where I live, about fifty cubits from Sham Pal's house. I know the present accused Sham Pal

On Friday, at 6.30, the Friday before last, the Friday after the disappearance of Jadu Nath Chatterjee, I heard Sham Pal abusing some one. I passed by his house and saw him obliterating some marks in front of his house. He called me to his door and showed me the marks, and said, There are some *badmashes* who wish to get me into trouble. They have made these marks. I saw some marks on the ground like the scratches of a jackal.

I was engaged in the search for the body of Jadu with many others. I did not notice any fence. I only searched on Monday.

Read over and admitted correct.

E. W. COLLIN,

13*th September* 1894. *District Magistrate.*

The deposition of SWARUP DEWAN SING, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Swarup Dewan Sing. I am a constable of the Domjore Thana. I brought a corpse from Bakshara. I don't know the day, it was Friday. To-day is Friday. I brought the body eight days ago. Rasik Babu, the Sub-Inspector of Domjore Thana, gave it to me to bring it in. Akhay, the relative of Jadu, came with me. I put it in the dead-house. Next morning the Doctor Sahib examined the body which I had brought. I and Akhay Babu identified the body. It was the body of Jadu Chatterjee. It was made over to me about twelve o'clock at night, and I brought it into the dead-house by three o'clock in the morning.

Read over and admitted correct.

E. W. COLLIN,
District Magistrate.

The deposition of HARI, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Hari Bagdi. My father's name is Raju Bawri. I am by caste Bagdi. My home is at Mauzah Sulkea, Police Station, Howrah, Zillah Howrah, where I am diver.

I was employed by the police to examine some tanks by diving at Bakshara. It was five or six days ago. I do not remember the day. I searched four times. In one tank I found a small box. That (pointing to *Exhibit C*) is the box which I found. I heard it was Sham Pal's tank. There is a house close to it. There are steps (*pucca*) leading down to it. I gave the box to a constable. Many

people were present. The Darogah (points to Rasik) was there present. I found the box about four cubits from the steps. There were two or three weights inside the box.

Read over and admitted correct.

E. W. Collin,
District Magistrate.

14*th September* 1894.

The deposition of Kali Charan Duburi, aged about 25 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Kali Charan Duburi. My father's name is Gobardhan Duburi. I am by caste Bagdi. My home is at Mauzah Sulkea, Police Station, Howrah, Zillah Howrah, where I am diver.

I went to Bakshara with the police to search some tanks. This was about seven days ago. I don't remember the day.

There were four of us. Hari (points to him) was one of them. We searched four tanks. There is a tank close to a house. I don't know whose, it is a pucca house. In this tank there is a pucca ghât. I found there the small box (points *Exhibit D*). It was on the right of the ghât, about four or five cubits off. I gave the box to the Darogah Babu (points out Rasik, Sub-Inspector of Domjore Thana).

Read over and admitted correct.

E. W. Collin,
District Magistrate.

The deposition of Akhoy Kumar Banerjee, aged about 40 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Akhoy Kumar Banerjee. My father's name

is Bhola Nath Banerjee. I am by caste Brahmin. My home is at Mauzah Kasundia, Police Station, Seebpore, Zillah Howrah, where I am compositor.

Jadu, the deceased, is my brother-in-law. I remember his body being found. I was not present when it was found. I came afterwards, and saw it lying at the place where it had been buried. I identified it as the body of Jadu. I recognized the body by the toes and the enlarged joint of the toe, and a spleen scar on the stomach, and by the general appearance. I came with the constable, Swarup Dewan Sing (points him), who was in charge of the corpse, and who brought it that night to the dead-house, and next morning the Doctor Sahib came, and I identified the body to him with the constable. The body which the Doctor examined was the body which we brought in as the body of Jadu Chatterjee.

Read over and admitted correct.

E. W. Collin,
District Magistrate.

The deposition of Mahendra Nath Chakravarti, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Mahendra Nath Chakravarti. My father's name is Rama Nath Chakravarti. I am by caste Brahmin. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am doctor.

I know Jadu Nath Chatterjee. I lived about a *dak* from his house. I heard of his disappearance, and went to his house and heard all the facts and saw the *sindh*. I then went with Chandi Charan Ghosh and Mahendra Nath making inquiries. We were going along the road towards Sham Pal's house, from the north to the south. We passed

his house, and then I noticed a little to the south that the fence on the east of the road was broken, and that there were footprints going through the fence, and a broken *ol* plant. This roused our suspicion, but we went on, and when we got a little further, just the corner, we took the road to the east, and we saw Sham Pal in the path. We gave information of what we had seen to the police.

Read over and admitted to be correct.

E. W. Collin,

14*th September* 1894. *District Magistrate.*

The deposition of Jagabandhu Ghosh, aged about 50 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Jagabandhu Ghosh. My father's name is Akhoy Charan Ghosh. I am by caste Satgope. My house is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am pensioner.

I know Jadu Chatterjee. He was my neighbour, and I used to pledge my property with him. I know Sham Pal. He is a relative of mine. I was present when the tank was searched, and the two boxes (*Exhibits C* and *D*) were found with the weights. I knew them to be the boxes of Jadu Chatterjee. I have often seen them taken out when pledging my ornaments. I identify this weight (*Exhibit G*) with a hole in it. The tank where they were found was Sham Pal's tank. I was present when they were actually found in Sham Pal's tank.

Read over and admitted to be correct.

E. W. Collin,

14*th September* 1894. *District Magistrate.*

The deposition of Basanta Kumar Mukerji, aged about 52 years, taken on solemn affirmation under the provisions

of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 14th day of September 1894.

My name is Basanta Mukerji. My father's name is Ananta Ram Mukerji. I am by caste Brahmin. My home is at Mauzah Bakshara, Police Station, Domjore, where I am trader.

I was not present when the body of Jadu was found. Next day I went to search at the spot. I went to satisfy my curiosity, about five or seven cubits from where the body was buried. I found the *namabali* half above the jungle, and half covered by the jungle. This is the *namabali* (*Exhibit B*). I told the Inspector of Police of this, and took it away. I know Lahki. She lives near me. I was present when Pandu Uriya named her before the police. I said that I knew the house where she lived, and I went with a Head Constable in plain clothes and Pandu. I called her to my house, and I asked her what she had said at Jadu Chatterjee's house. I then took her before the District Sahib, where she was examined, and where she identified Sham Pal out of a line of about thirty people.

Read over and admitted correct.

E. W. Collin,

14*th September* 1894. *District Magistrate.*

The deposition of Kapil Chandra Mullik, aged about 45 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 19th day of September 1894.

My name is Kapil Chandra Mullik. My father's name is Degambar Mullik. I am by caste Koibarto. My home is at Mauzah Bator, Police Station, Howrah, Zillah Howrah, where I am surveyor and estimator.

I prepared the map (*Exhibit A*). It is signed by me.

The map is made according to measurement, but not perfectly accurate. It is a sketch map.

The houses and the walls of the house of Sham Pal and of the deceased are made according to scale of forty feet to the inch.

I have not put in all the houses. The country between the house of the accused and the deceased is covered with garden and jungle. The country round Sham Pal's house is especially jungly.

Read over and admitted correct.

E. W. COLLIN,
District Magistrate, Howrah.

19th September 1894.

The deposition of MAHENDRA NATH PATRA, aged about 40 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 26th day of September 1894.

My name is Mahendra Nath Patra. My father's name is Baburam Patra. I am by caste Teli. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am shopkeeper.

My shop is outside the municipality. I knew the deceased. I know Pandu. He came to me and asked me if any woman from Satghara bought any goods from me, and what was her name. I said Lakhi Naptini. This was about 2 P.M. or 2.30. He then went on towards Satghara. This was on the afternoon of the day that the body was found.

Read over and admitted correct.

E. W. COLLIN,
District Magistrate.

The deposition of KALI PADA PAL, aged about 38 years, taken on solemn affirmation under the provisions of Act X.

of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 26th day of September 1894.

My name is Kali Pada Pal. My father's name is Kartick Chandra Pal. I am by caste Satgope. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am moulder.

I know Sham Pal, accused, present. I live about 150 cubits from his house on the north. I know Gentu. He frequently comes to the house of Sham Pal (*proi ashi*).

I remember the day that the deceased disappeared. I know that Gentu came in the morning of that day and went to Sham Pal's house. He had to pass by my house, and I saw him go in that direction. I saw him pass by. I was going to market, and came back and cooked my food and left my house about ten o'clock.

Read over and admitted correct.

E. W. Collin,
District Magistrate, Howrah.

The deposition of Sri Krishna Ghosh, aged about 24 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 26th day of September 1894.

My name is Sri Krishna Ghosh. My father's name is Modhu Sudun. I am by caste Satgope. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am jeweller.

I know accused. He is my second brother's father-in-law. My brother's wife's sister's husband, Ram Chandra Ghosh, lives at Jagachia. He is now at Darjeeling. About five or six days after the disappearance of the deceased I was told by the police to bring Ram Chandra's boy from Jagachia. I went to his house and found the boy Gentu. He is always called Gentu. His grandmother was not at

home, but had left the children with a Teli woman. The woman at first would not let the boy come with me. But I said their sister was sick. Then she let them go, but I heard her say to Gentu : " Do not say anything about your grandfather."

The pleader for the defence objected to further questions on the subject, and they were disallowed.

The Teli woman is Sarasati by name.

Read over and admitted correct.

E. W. Collin,

26th September 1894. *District Magistrate.*

SUPPLEMENTARY EVIDENCE.

The deposition of Beni Madhab Chatterjee, aged about 53 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 1st day of November 1894.

My name is Beni Madhab Chatterjee. My father's name is Govinda Chandra Chatterjee. I am by caste Brahmin. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah. I reside at present in Mauzah Bakshara, Police Station, Domjore, Zilla Howrah, where I am Medical Practitioner.

I knew the deceased, Jadu Nath Chatterjee. I used to treat him medically. He lives about the distance of a *rasi* from my house. He was in good health for two months before his death. I had not treated him for any illness during these two months. He had malarious fever for five or six months before this time. It was periodic fever. He had no other disease. I have known him for twenty-three or twenty-four years. He did not take opium or any intoxicant. He had no diabetes or any other disease except fever. I do not know that he went to any other

doctor besides me. Nanda Palit has seen him once or twice. This was two or three years before.

Read over and admitted correct.

E. W. Collin,

1*st November* 1894. *Officiating Magistrate.*

Srimati Debi recalled and examined on solemn affirmation.

My husband, Jadu Chatterjee, the deceased, never took any kind of intoxicant. He did not eat opium or morphia. He had had fever for five or six months, but two or three months before his death he had no fever, and was in good health. He was in good health, and had been in good health for two or three months when he died. Beni Madhab Chatterjee and Nanda Palit used to treat him when he was ill. The former was his regular doctor.

Read over and admitted correct.

E. W. Collin,

1*st November* 1894. *Officiating Magistrate.*

The deposition of Amrita Lal Deb, aged about 50 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, Magistrate of Howrah, this 1st day of November 1894.

My name is Amrita Lal Deb. I am Assistant-Surgeon at the Howrah General Hospital. I remember the *post-mortem* of Jadu Nath Chatterjee. The sweeper, in my presence, took a portion of the stomach and a portion of the liver and kidney, which was put in a bottle in my presence. The bottle was sealed and labelled by me to be sent to the Chemical Examiner. Bhagwan was the man who put the stomach in the bottle in my presence. The bottle was made over to Bhagwan Dome, to be placed in a box where stomachs are kept. I wrote out the label, but

I cannot say exactly what I wrote on it. Further examination deferred till the letter with which the bottle was sent is produced.

E. W. COLLIN,
Magistrate.

Further examination not required.

Read over and acknowledged correct.

E. W. COLLIN,
Magistrate.

The deposition of BHAGWAN DOME, aged about 48 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 1st day of November 1894.

My name is Bhagwan Dome. My father's name is Budhu. I am by caste Dome. My home is at Mauzah Bakshara, Police Station, Domjore, Zillah Howrah, where I am.

I am engaged in the Howrah General Hospital as dissector in the *post-mortem* examinations. I remember the body of Jadu Nath Chatterjee, which came on the 4th September last. The body was examined on that day. The stomach was placed by me in a bottle with a list of the liver, in the presence of the Assistant-Surgeon. The bottle was sealed by Amrita Baboo, the Assistant-Surgeon. He also wrote the label and placed it on the bottle. I took the book and called the Police Doctor, who keeps the key of the chest where stomachs are kept. I placed the bottle in it and locked up the chest. The Doctor took away the key. On the 10th September I was ordered to take the bottle to the Chemical Examiner. I called the Police Doctor, Raj Kumar, who opened the box and gave me out the bottle after reading the label. Jogin Babu, the head clerk, gave me also a letter, and I gave it over with the bottle to a clerk at the Medical College. I identify the

Baboo to whom I gave it (points out Kali Krishna Sen Gupta). I received a receipt from him. This (*Exhibit H*) is the receipt which I got for the bottle, and I returned this receipt to the clerk, Jogin Babu, in the Howrah Hospital. The seal was intact when I took the bottle from the hospital and gave it over at the Medical College.

Read over and admitted correct.

E. W. Collin,
Officiating Magistrate.

The deposition of Raj Kumar Das, aged about 50 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, Magistrate of Howrah, this 1st day of November 1894.

My name is Raj Kumar Das. I am Civil Hospital Assistant at Howrah in charge of the Police Hospital and Jail. I keep the key of the chest in which stomachs are kept in the Hospital. I remember that Bhagwan Dome gave me the bottle containing the stomach of Jadu Nath Chatterjee. I knew it was his because it was written on the label. The bottle was sealed. I put it in the Hospital box and locked it up. After a few days I was again called to unlock the box and give it to the same Bhagwan Dome. I unlocked the box and gave him the bottle after reading the label. It was the bottle containing the stomach of Jadu Nath Chatterjee. The seal was intact when I gave the bottle to him. The Dome took the bottle to the clerk of the Hospital.

Read over and admitted correct.

E. W. Collin,
1*st November* 1894. *Officiating Magistrate.*

The deposition of Umesh Chandra Khan Baduri, aged about 60 years, taken on solemn affirmation under the

provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 1st of November 1894.

My name is Umesh Chandra Khan Baduri. My father's name is Brojo Nath Khan Baduri. I am by caste Brahmin. My home is at Mauza Bakshara, Police Station, Domjore, Zilla Howrah, where I am landholder.

I am not in the habit of taking morphia, but I have taken it four or five times in the course of my life. I have no idea how much I took. The amount produced (placed in a packet, sealed and marked *Exhibit I*) is the amount which I used to take.

The morphia used to affect me in about twenty minutes. I took it for intoxication, and I still take opium for the purpose.

Read over and admitted to be correct.

E. W. Collin,

1*st November* 1894. *Officiating Magistrate.*

The deposition of Shashi Bhusan Dass, aged about 45 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this last day of November 1894.

My name is Shashi Bhusan Dass. My father's name is Madhu Sudan Dass. I am by caste Gandabornik. My home is at Mauzah Jorasanko, Police Station, Calcutta, where I am medicine-seller.

I sell morphia. I get it from England. A licence is required for selling opium and its preparation. I can sell it to any one. I sold this Babu (points at Mahendra Nath Chakravarti) half a drachm of morphia at six annas. I sold him thirty grains. This is the morphia I sold (*Exhibit J*). My writing is on the paper.

Read over and admitted correct.

E. W. Collin,

1*st November* 1894. *Officiating Magistrate.*

The deposition of MAHENDRA NATH CHAKRAVARTI, aged about 35 years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, Officiating District Magistrate of Howrah, this 1st day of November 1894.

My name is Mahendra Nath Chakravarti. My father's name is Rama Nath Chakravarti. I am by caste Brahmin. My home is at Mauzah Bakshara, Police Station, Domjore, Zilla Howrah, where I am shopkeeper.

I know the last witness (points at Shashi Bhusan). I bought half a drachm of morphia at six annas. I did not give any certificate when I bought it.

Read over and admitted correct.

E. W. COLLIN,
Magistrate.

1*st November* 1894.

The deposition of JOGENDRA NATH MUKERJI, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 2nd day of November 1894.

My name is Jogendra Nath Mukerji. I am Head Clerk in the Civil Surgeon's Office at Howrah. I produce the forwarding memo. with which the bottle containing the viscera of Jadu Nath Chatterjee was sent to the Chemical Examiner.

The forwarding memo. is marked, and a copy taken and filed with the record (marked *Exhibit O*). This contains only an extract of what the label contained. I copied the label exactly, and sent the copy to the Chemical Examiner's Office. This was on the 10th September.

I gave the letter and forwarding note to Bhagwan Dome. He brought back a receipt which is filed (*Exhibit*

H). It was brought by Bhagwan Dome from the Chemical Examiner's Office, and I filed it in the office.

Read over and admitted correct.

E. W. COLLIN,
Officiating Magistrate.

The deposition of KALI KRISHNA SEN GUPTA, aged about years, taken on solemn affirmation under the provisions of Act X. of 1873, before me, E. W. Collin, District Magistrate of Howrah, this 2nd day of November 1894.

My name is Kali Krishna Sen Gupta. I am Second Clerk to the Chemical Examiner. I received a sealed glass bottle on the 10th September from the Civil Surgeon, and a letter of advice in connection with it. I produce the letter (*Exhibit P*).

I made over the bottle and the letter to one of the Chemical Examiners, viz. a Chemical Examiner, and I gave a receipt for it. This is the receipt which I signed (*Exhibit H*). The seal was intact when I gave it to the Chemical Examiner.

Read over and admitted correct.

E. W. COLLIN,
Magistrate.

Petition for the Transfer of the case from Howrah.

Filed 13th November 1894
Shama Charan Pal
by
Hemendra Nath Mitter,
Pleader.

To

THE SESSIONS JUDGE OF HOWRAH.

The humble petition of SHAMA CHARAN PAL, prisoner in the Hooghly Jail.

RESPECTFULLY SHEWETH,

That your petitioner has been committed to take his

trial on a charge under Section 302, I. P. C., at the Howrah Sessions, and the said case will come on for hearing on the 19th instant (November).

2. That your petitioner submits that there has been, and is, at present existing in the whole of the District of Howrah among the Hindu population thereof, a strong feeling against your petitioner, inasmuch as the deceased in the case against your petitioner was a Brahmin.

3. That your petitioner, though very poor, and consequently unable adequately to pay for the defence, would, in all likelihood, have succeeded by reason of his innocence in enlisting the sympathies of some gentlemen of the local bar, but has not so succeeded on account of the strong feeling studiously excited, and the adverse rumours sedulously circulated by your petitioner's enemies in the village of Bakshara and its neighbourhood.

4. That your petitioner's wife has succeeded, by explaining to them the nature of the case, and laying before them the character of the evidence against your petitioner, in enlisting on his behalf, the sympathies of some members of the Calcutta and Alipore Bar, who have kindly volunteered, without remuneration, their services in the defence of your petitioner.

5. That your petitioner has been informed that a gentleman of the Howrah Bar told one of the gentlemen of the Calcutta Bar who, as aforesaid, has volunteered his services on your petitioner's behalf, that he has been appearing for the prosecution in the said case, inasmuch as the deceased was a Brahmin, and your petitioner has been further informed that several persons connected with Howrah, and one of them a resident of the neighbouring village of Santragachi, have indicated to your petitioner's Counsel that the feeling in Howrah and the adjoining towns and villages is so strong against your petitioner, that it will be extremely difficult to get a Hindu jury of

the District of Howrah to deal impartial justice in the said case.

6. That the case against your petitioner is now the topic of conversation in all circles in the District of Howrah, and in spite of the result of the chemical analysis which came to light after your petitioner's committal, the feeling in all circles in the District of Howrah is very bitter against your petitioner, owing, as before described, to the fact that your petitioner's alleged victim was a Brahmin.

7. That the said bitter feeling is fomented and kept up by the arts and machinations of neighbours of your petitioner, who are very powerful people, and with whom your petitioner has been at feud for a long time, as has been practically found by the Committing Magistrate in his grounds of commitment; and diverse theories, however wild and untenable, are suggested by the said enemies of your petitioner to explain away the result of the chemical analysis described above; and the said theories, however absurd they may be, are being eagerly accepted by all classes of people in the said district in their present state of religious excitement in which they have been thrown by the cry of "a Brahmin killed."

8. That having regard to the facts set forth herein, your petitioner prays that Your Honour will be pleased to take such steps as may lead to the trial taking place at Your Honour's Court at Alipore, as your petitioner is firmly persuaded that he has no chance of a fair trial before a Howrah jury, and your petitioner submits that the step suggested by your petitioner will not entail any additional expense or trouble, and certainly will not cause any unnecessary delay.

And your petitioner as in duty bound
shall ever pray.

Order by the Sessions Judge.—This is not an application with which I can deal myself. The Honourable High Court should be moved in the matter. The Additional Judge of Hooghly could have no objection to trying the case in Alipore instead of in Howrah, if the allegations contained in the petition be true.

The application is returned.

J. KNOX WIGHT,

13*th November* 1894. *S. J.*

NOTE.—This petition was subsequently presented before Mr. C. M. W. Brett, Additional Sessions Judge of both Alipore and Howrah, and he was requested by the Counsel for the prisoner to refer the case to the High Court for an order transferring the trial to Alipore ; but on a suggestion being made by Mr. Brett that thirty jurymen might be summoned from places remote from the village of Bakshara, out of whom the requisite number could be selected by lot, the Counsel fore the defence did not think it necessary to press the application.

Affidavits filed in support of the application.

IN THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

EXTRAORDINARY CRIMINAL JURISDICTION.

IN THE MATTER OF THE EMPRESS

v.

SHAMA CHARAN PAL.

I, RAM LAL ROY, son of Bhagaban Chandra Roy, accused, resident of Bakshara, solemnly affirm and state as follows :—

1. That I am an inhabitant of the village of Bakshara in the District of Howrah.

2. That I know of my own personal knowledge that Jadu Nath Chatterjee, deceased, of Bakshara, had served on the Panchayet of the said village for some years, and that he was compelled to give up the said office on account of a petition, dated March 1894, to the District Magistrate of Howrah, praying for the removal from the said Panchayet of the said Jadu Nath Chatterjee and Shama Charan Pal and others who were associated with the said Jadu Nath Chatterjee in the said office.

3. That although the said Jadu Nath Chatterjee, deceased, gave up, as aforesaid, his place on the said Panchayet of Bakshara, the said Shama Charan Pal continued in his office, and the said Jadu Nath Chatterjee used to take a great interest in the work of the said Shama Charan Pal as Panchayet, and in him generally, and used to advise and help the said Shama Charan Pal in everything he did, and in consequence thereof the said Jadu Nath Chatterjee incurred the displeasure of the people of Bakshara.

4. That long before the said petition to the District Magistrate of Howrah was made by the inhabitants of Bakshara, praying for the removal of the said Shama Charan Pal and his colleagues from the Panchayet described above, there was, and had been, a great *daladali*, party faction, in the said village of Bakshara, in which the aforesaid Jadu Nath Chatterjee, deceased, supported and proved to be of material help to the said Shama Charan Pal, and was the only influential partisan of the said Shama Charan Pal in the said village of Bakshara.

5. That on the 9th day of the month of August of the current year 1894, a person of the name of Bhuban Ghosh, a caste-fellow of the said Shama Charan Pal, and inhabitant of the said village of Bakshara, brought a criminal case against the said Shama Charan Pal and a brother Panchayet of the name of Nibaran Chandra

Chakravarti, alleging certain misdoings on the part of the said Panchayets, in the Court of Babu Nagendra Nath Pal Chowdhry, Deputy Magistrate of Howrah.

6. That the said Jadu Nath Chatterjee, deceased, took a lively interest in the said case on behalf of the said Shama Charan Pal, so much so, that he attended the Criminal Court at Howrah to lend his support to, and help in other ways, his friend, the said Shama Charan Pal, while the said case instituted by Bhuban Ghosh was being tried towards the latter part of August.

7. That I know, and verily believe, that all the movements described in the foregoing paras. were set on foot against the said Shama Charan Pal and the said Jadu Nath Chatterjee by many of the caste-fellows of the said Shama Charan Pal who belonged to the opposite faction, and who are very wealthy and influential.

8. That I know that the said Shama Charan Pal has been, and still is, on terms of bitter enmity with a large number of his caste-fellows and co-villagers for some time past.

9. That I know, and verily believe, that this murder case is the principal topic of conversation at present in all circles, high or low, in the District of Howrah, and the enemies of the said Shama Charan Pal are going about circulating all manner of rumours prejudicial to the said Shama Charan Pal, and trying to create public opinion adverse to the said Shama Charan Pal by raising the cry of *Brahmahatya*, "a Brahmin murdered."

10. That the said Shama Charan Pal is not very popular with his fellow-villagers by reason of the strictness with which he fulfilled his duties as Panchayet, and further he is a person not well off in his circumstances, and therefore he is not in a position to counteract the influences of his enemies.

11. That I verily believe that if the said case of the

Empress *versus* Shama Charan Pal is tried at Howrah, it will be extremely difficult to get a fair and impartial jury to help the Sessions Judge at the trial, by reason of the strenuous efforts which are being made as set forth herein to prejudice the said Shama Charan Pal among that class of persons specially from whom jurymen are selected.

Duly affirmed, on the 14th November 1894, by

Ram Lal Roy.

IN THE HIGH COURT OF JUDICATURE AT FORT WILLIAM IN BENGAL.

EXTRAORDINARY CRIMINAL JURISDICTION.

In the matter of the Empress

v.

Shama Charan Pal.

I, Hira Lal Pal, son of Shama Charan Pal, inhabitant of Bakshara, in the District of Howrah, do solemnly affirm and state as follows:—

1. That my father has been committed to the Howrah Sessions to take his trial on a charge of having murdered one Jadu Nath Chatterjee, of the village of Bakshara, on the 29th day of August 1894.

2. That my father has been in terms of bitter enmity with one Mahendra Nath Ghosh, a wealthy and influential resident and Patnidar of the village of Bakshara, for some time past.

3. That there has been and still is *daladali*, party feeling, in the said village of Bakshara arising out of the said enmity between my father and the said Mohendra Nath Ghosh and his followers and adherents.

4. That in the murder case described in para. 1 hereof,

the aforesaid enemies of my father have been trying to influence public opinion against my father by circulating all manner of rumours prejudicial to him, and also by raising the cry of *Brahmahatya*, "Brahmin murdered."

5. That the said rumours and the said cry of *Brahmahatya* have, to my knowledge, been so far successful that no respectable Pleader or Muktiar of Howrah would undertake to defend my said father in the Sessions Court there, although I went to several.

6. That in view of the strong feeling evoked by the said rumours circulated so assiduously by my said father's enemies, despairing of getting proper legal assistance at Howrah to defend my father at the Howrah Sessions, my mother has been begging members of the Calcutta Bar and Alipore Bar to take up my father's said case; and not being able to pay for such assistance by reason of her poverty, she has had recourse to prayers and entreaties, which coupled with the facts of the case as they appear upon the uncross-examined testimony of the witnesses for the prosecution, and the result of the chemical analysis of the stomach of the deceased, and the statements of the witnesses taken subsequent to my father's committal to the Sessions, has induced two members of the Calcutta Bar, and certain gentlemen of the Bar of Alipore, to take up my said father's case.

7. That I have been informed by one of the Barristers, who, as aforesaid, has kindly volunteered his gratuitous services in my father's case, that a leading Pleader of the Howrah Bar has declared to him that he, the Pleader, is appearing for the prosecution in the said case because a Brahmin has been murdered.

8. That I have been further informed by another Barrister, who has volunteered to defend my father in the said case, that a gentleman, resident of the neighbouring village of Satragachi, has indicated to him, the said Barrister, that

it will be extremely difficult to get an impartial jury in the said case against my father by reason of the general strong feeling prevalent among all classes of people in the Howrah District against my said father.

9. That the said bitter feeling is being fomented and kept up by the arts and machinations of my said father's enemies, who are very powerful and wealthy; and with whom my said father has been on terms of bitter enmity for some time past, as has been practically found by the committing Magistrate in his grounds of commitment; and theories, however wild and untenable, circulated by the said enemies of my father for the purpose of explaining away the result of the said chemical analysis described hereinbefore, are being eagerly accepted by all classes of people in the District of Howrah, as the said case against my said father is the staple topic of conversation in all circles in the said district.

10. That inasmuch as it is impossible for us to know beforehand, and challenge on the ground of prejudice or bias, any juryman who might be called upon to sit on the jury in my said father's trial, and in view of the strong feeling evoked against him as described herein, I verily believe that if the trial took place at Howrah, it would be extremely difficult, almost impossible, to find a fair and impartial jury.

Solemnly affirmed before the Commissioner of the High Court on the 14th November 1894.

HIRA LAL PAL.

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